R: White sculpsit
IOHANNES · SELDENUS. Armig:

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THE

Reverse or Back-face

OF THE

English JANUS.

TO-WIT,

All that is met with in STORY

Concerning the

COMMON

AND

STATUTE-LAW

OF

English Britanny,

From the first MEMOIRS of the two NATIONS, to the Decease of King *HENRY* II. set down and tackt together succinctly by way of Narrative.

Designed, Devoted and Dedicated to the most Illustrious the EARL of *SALISBURY*.

Written in *Latin* by *JOHN SELDEN* of *Salvinton*, Student of the *Inner-Temple* in *LONDON*; and Rendred into *English* by *REDMAN WESTCOT*, Gent.

London, Printed for *Thomas Basset*, and *Richard Chiswell*. MDCLXXXII.

To the Right Honourable and truly Noble Lord, *Robert* Earl of *Salisbury*, Viſcount *Cranborn*, Baron *Cecil* of *Eſſenden*, Knight of the Illuſtrious Order of the Garter, Lord High Treaſurer of *England*, Maſter of the Court of Wards, and Privy Counſellor to His Moſt Excellent Majeſty, *JAMES*, King of *Great Britain*, *France* and *Ireland*, Heartily according to his high deſert, I devote and dedicate,

AND as it were with conſecrated Flowr, and crackling grain of Salt, I offer up in Sacrifice. I am not in condition to do it with a coſtly Victim, or a full Cenſer. *GREAT SIR*, deign with favour to receive theſe ſcraps of Collection; relating intirely, what they are, and as far as the preſent Age may be ſuppoſed to be concerned in ancient Stories and Cuſtomes, to the *Engliſh-Britiſh* State and Government; and ſo far forth to *Your* moſt Honoured *Name*. Which Name of Yours, whileſt I, one of the lowermoſt Bench, do with dazzled eye-ſight look upon (moſt *Noble Lord*, and great Support of your Country)

I devoutly lay down
Upon its ALTAR
This ſmall Earneſt and Pledge
of my Obedience and Duty.

THE

TRANSLATOR'S PREFACE TO THE READER.

Reader,

THOU canst not be such a Stranger to thy own Countrey, as to need my commendation of the Learned, Worthy and Famous *AUTHOR* of these following Sheets; or that I should tell thee, what a Scholar, a Philologer, a Humanist, a Linguist, a Lawyer, a Critick, an Antiquary, and (which proves him an absolute Master of all these and many other Knowledges) what a Writer, the Great *SELDEN* was. Since it is liberally acknowledged by every body, that knows any thing (not only at home, but abroad also among Foreigners) that *Europe* seldom hath brought forth *His Fellow* for exquisite Endowments of Nature, Attainments of Study, and Accomplishments of Ingenuity, Sagacity and Industry. And indeed, to save me the labour of saying any more concerning this *Non-pareil* in all kinds of Learning, His own *WORKS*, which are now under

under a Review, and will e're long be made Publick in several Volumes, will sufficiently speak his Character, and be a more prevailing Argument to indear Him to thy good Opinion and firm Acquaintance, than mine or any other *Words* can.

My business now is only to give thee some Account of the Author's design in this little *Treatise*, and of those measures I took in Translating Him, that is, in restoring him to his own Native Language; though his great *Genius* had made the *Latin* and several other *Tongues*, as natural and familiar to Himself, as the *English* was.

To speak first of the *Author*, I do take this Piece to have been one of his first Essays, if not the very first; wherein he launched into the World, and did not so much try the Judgement, as deservedly gain the Approbation of the Learned: which was certainly one Reason, why, though the whole matter of the Book be of an *English* Complexion and Concern, yet he thought fit to put it forth in a *Latin* dress. That this was his first *Specimen*, or at least one of the first, I gather from the time of his Writing it, *viz.* in the Six and Twentieth year of his Age; when I suppose he was not of any very long standing in the *Temple*; I mean, in all likelihood, whilst he was on this side the Bar. For having fraught himself with all kind of Learning, which the *University* could afford him (which could be, we must imagine, no small time neither; as I may be allowed to guess from that passage of his in this Book, where he so affectionately recognizeth his Duty and Gratitude to his dear Mother *OXFORD*; who, if she had no other *Antiquity* to boast of, is and ever will be Famous for This Her Scholar, our great *Antiquary*; who hath also such a Monument to be seen in her publick *Library*, as will make her Glory and his Memory ever to flourish) I say, having after some competent time taken leave of *Academical* Institutions, and being now engaged into the Study of *Law*, he thought he could not do his Profession a better service, than by looking back into former times, and making a faithful Collection of what might be Pertinent and Useful, to bring down, along through all Changes and Vicissitudes of State, the Light and Strength, the Evidence and Reputation of old Institutes and Precedents to our present Establishments under our Gracious and Happy Monarchy. May It, as it is in its Constitution to the *English* people *Gracious*; so be ever in its Success to It self, and consequently

it was written in 1610

ſequently to Us all, *Happy!* Here then thou wilt find the Rights of Government through all Ages, ſo far as our Hiſtories will help us; Here thou wilt ſee, from the firſt, our *KING* ſetled in his juſt Power, even in his *Eccleſiaſtical Juriſdiction* againſt the *Papal Uſurpation*; one ſhrewd Inſtance whereof is, the forbidding Appeals to the *Pope*, at ſuch a time when the *Popiſh Religion* was at its Zenith in this Iſland; that is, when People in all probability were moſt Ignorant. Here thou wilt eaſily be brought to acknowledge the Antiquity and Uſefulneſs of *Parliaments* (though under other Names till after the Conqueſt) when all the *Barons*, that is, as that Title did at firſt import, all Lords of Mannors, all Men of Eſtate aſſembled together for the determination of publick Affairs: which Uſage, becauſe it produced too numerous and cumberſome a confluence, was afterwards for better convenience retrenched into a popular Election by the Kings Writ to chuſe ſome of the Chiefeſt to act for all the reſt. And ſure enough, if we in Duty keep up the *Royal Prerogative*, and our Kings, as ever they have done, and ever, I hope, will, in Grace and Clemency oblige the *Peoples Conſent* in their Repreſentatives; we ſhall alwayes have ſuch Laws, ſuch a Government, ſuch a Correſpondence betwixt Prince and Subjects, as muſt (according to the Rules of Humane Prudence, adding our Piety to it) make this Kingdom of Great *Britanny* (maugre the malice of the Devil and his Agents whatever, *Jeſuits* or *Fanaticks*) a flouriſhing and impregnable Kingdom.

Having ſaid this in General of the Author's deſign, I ſhall not deſcend to Particulars, which I leave to thy ſelf, *Reader*, to find out, in the peruſal, that may be of good Uſe and great Conſequence to the Publick; but fearing, thou maiſt think I am ſo much taken up with the *Author*, that I have forgot *My ſelf*, I have two or three words to ſpeak of that ſorry ſubject, before I leave thee.

As to the *Tranſlator*; I confeſs, it is no great credit for any one to appear in that Figure; a Remark, which I have learn't from one, who hath tranſlated another excellent Piece of this *Noble Author*, (*Noble* I call him, ſith Nobility is rais'd by Parts and Merits, no leſs than continued by Birth and Deſcent) it was his *Mare Clauſum*, wherein he, I ſpoke of, hath acquitted himſelf very well, abating for his Villanous *Dedication* to the *RUMP-Parliament*, which was then ſetting up for a *Republick*; in which Dedication of his, he hath vilely and like himſelf (I

ſpeak

speak in Charity, as to his Interest, I mean, not his Judgement or Conscience at least, if there were any) asperſed the *Royal Family* with Weakness and Collusion, to have lower'd the *British* Renown.

I am bid by Him, who puts this into thy hands, to tell thee, that when he was embark'd into this Employ; whatever it was, upon the coasting of it over, he was surprized to find, he had undertaken such a difficult and hazardous Voyage, and did presently conclude, That none but a *Selden* (that is, a Person of omnifarious Reading) was fit to be a *Selden's* Interpreter. For no other person, but one so qualified, can be Master of his Sense, Master of his Expression. His ordinary Style, where he delivers himself plainest, is as to the Matter of it, so full of Historical and Poetical Allusions, and as to the Method (and hath that of Crabbed in it besides) so Intricate and Perplex, that he seems, even where he pretends to Teach and Instruct, to have intended only to Amuse and Confound the Reader. In very deed, it is such a Style, as became a Learned *Antiquary*, which is to be *Antique* and Oracular; that one would think, the very Paper, he wrote upon, was made of the *Sibyll's* old-worn Sheets, and that his meaning could not be fisht out without the assistance of a *Delian* Diver. However the *Translator* (though so much Inferiour to the Undertaking, as to be almost Unacquainted with some considerable parts of it) did presume (whether rightly or no, must be left to thy judgement) that he was not utterly unfurnished with those Skills and Helps, which might make the Work Intelligible and Acceptable even to Plebeians. For though it was at first designed by the Excellent Author in his *Latin* for such as were meerly Lawyers and Scholars (they must be both, that mean to understand it as he wrote it) yet now it being done into *English*, it was to be calculated to the Meridian of common Capacities and vulgar Understandings. Which end he hath, he hopes, in some good measure answered; and in order to which end, he hath, to supply the defects of his *Translation*, at the end of the Book subjoyned some *Annotations*, which may serve partly to clear the Author's meaning, and partly to vindicate himself in the Interpretation. He did think once to have affixt those *Annotations* to the places they belong to; but upon second and better thoughts, he consider'd, that the Authors *Quotations* would be enow of themselves to charge the *Margin* with, and a further superfœtation

tation would but cloy and surbate the Reader; though in the body of the Work, there are up and down many Explanations inserted, to excuse him from the trouble of having recourse to those Notes, which are added out of pure necessity, and not from any vanity of Ostentation, since the whole, if it had its due, might seem to require a perpetual *Comment*. In the main, which is enough for a *Translator*, be his *Author* what he will, he doth assure thee, that the meanest Subject of *England* may now read one of her greatest Champions and Writers (for Learned Pens sometimes do as good and as great service as Valiant Swords do) so understandingly, that he may edifie and learn, what duty and deference he ought to have for the Best of Governments.

And now, *Reader*, excuse me in a Digression, and do not impute it as a Levity to me, that I follow my Grave Author. It is my Duty so to do; it is my Happiness, if I can: He doth not despair, now he appears in *English*, to have *Female-Readers* too, to court him so far at least as to peruse his Translation, who hath so highly courted them with Noble Caresses in that Chapter, wherein he hath so learnedly pleaded the Excellencies and Rights of that *Angelical Sex*, (if Angels have any Sex) to the abashment and overthrow of the *Salick* Law. To what purpose did the *Author* write so much in their Commendation, if they were not to know it? which, if the poor *Translator* hath any Obligations upon the Sex, he hopes they will own this as an Addition: not to mention that other Chapter of his, where, like a Gentleman and a Lawyer both, he maintains that freedom peculiar to our *English Ladies*, and which with Lawyers leave, I may call *The Courtesie of England*, in receiving of Salutes, against the censure of Rudeness on the one hand, and the suspicion of Wantonness on the other. Though I must confess also, that some of his Citations in that defence, are so free, that I thought fit rather to leave them as I found them, than by putting them into *English*, to expose the Modesty of the Sex.

I have no more to say, *Reader*, but to beg thy Excuse, for any thing, wherein I may appear to have come short of the Weighty and Abstruse Senses of our Great and Worthy Author, and that I may detain thee no longer from his Conversation, to bid thee *Farewell*.

THE AUTHOR'S PREFACE TO THE READER.

AND that the Tutelar or Guardian of my threshold may not entertain thee with unlucky or ill-boding terms, he doth freely bespeak thee Health and Greeting, whoever thou art, Dear Reader. *Moreover, he is in the humour to declare both the Occasion of drawing the first Furrow of this Enterprize, and also the Model and Frame of the whole Work, what it is, finished and compleated. It is a long while ago, considering how young a man I am, since from the first I have made it my hearty wish, that the ancient Original and Procedure of our* Civil Law *might more fairly and clearly be made out; as far, I mean, as the thing will bear, and as what store we have of publick Records affords assistance.*

Ἄλλοις γὰρ ἄλλα καρδίαν ἐπάνεται,

For several men with several things are pleas'd,

as said Archilochus *of old; and I do own for my self, what* Seneca *the Declaimer saith, that* I take pleasure in going back to Studies of Antiquity, and in looking behind me to our Grand-sires better times. *Which, to say truth, they who do too much, slight,* Senec. controv.

Lucret. l. 1. Ardua dum metuunt, amittunt vera viai.

that is,

Whilst lofty passes they do fear, through sloth
They lose the certain tracks and paths of troth.

And, so may the Muses alway favour me, they are such things as are

Enn. Annal. l. 7. ——— Anteiqua, sepolta, vetusta,
Quai faciunt mores veteresque novosque tenentem
Moltarum veterum Legum, Divômque Hominumque
Prudentem.———

as saith another old Latin *Poet; that is, such stories as are*

Antique, buried in rubbish, old and musty,
Which make one versit in customs old and new,
And of Laws, Gods and Men giving a view,
Render the careful Student skill'd and trusty.

Some spare hours have been spent by me in reading over Historians, Chronologers, Antiquaries, *Foreigners and our own Countrey-men, those of Ancient date and the more polite of the Modern sort: those especially who seem'd to make out the quickest course to that Goal and design I spoke of. I have carefully cull'd out whatsoever I met with, that lookt like the Orders and Decisions of* Prætors *or Lord Chief Justices, and whatsoever concerns the* Civil *or* Prophane Law. (Prophane *I call that, which is not held by the Religion of the Church; as* Sextus Pompeius *hath taught me.*) *I did judge that there were a great many things in those Writers worth the knowing, and which might deserve to be digested into a kind of Volume according to order of Chronology, I did in the first place advise, and took that special order with my self, that as to this undertaking, I might with the greater ease have my Attendants ready at hand to wait upon my Studies. I went about to give some closure and cement, such as it is,* (i. e. *some method and connexion*) *to the scattered and disjointed bulk, and I brought it to a conclusion; and assoon as it came into my mind to publish it, I endeavoured according to that meanness, which it appears in, to finish it* (*that I may make use of a Mathematick term*) *with its Complement. I have set the model and frame upon a sure account* (*not upon mine*

own

own credit neither, who am too apt to take on trust things suspected) and in a compendious way: *I have writ my self compendiously and succinctly; I have transcribed out of others* faithfully. *I do on set purpose vouch the credit, I go upon, to be none of mine, but the Authors, I have taken out of, that I may not be accused of false dealing by unskilful or careless Readers. I have applyed my self not only to the meaning of the Writers, or to their historical account, but even to the very words and syllables, which they spoke, and have inserted them printed in a different character; those, I confess, unless it be from them of the middle age, many times sufficiently barbarous, that miserably want polishing, such as Criticks cannot away with, and do very well agree with the Records and Reports of Law, which we converse with. However I would not have thee disdain in the mean time brimful and wholsome draughts of liquor, because the Bowl was not made in a Potters shop of* Colias *a place in* Athens, *or in cold Winter to slight a garment which is not made of* Attick *Wooll; as* Plutarch *hath admonished the hearers of Philosophy. Let young Ladies speak finically with their golden Flower-amours, and let them, who have store and leave at once, court the graces of words and beauties of expression. 'Tis true, the care of exact speaking, is a thing befits the* Muses, *yet how the most abstruse Mysteries even of the highest* Urania, *of Divinity it self, are laid open without it, the* Thomists, *the* Scotists, *and what other Sects and Parties of School-men there are, know well enough. And there are some others also, that think they know; I mean the inquirers into Heavenly Calculations* (Astrologers) *and the Weather-wise-men* (Almanack-makers) *who in good deed for the most part rely too much upon the trifling stories of their Masters. Now they, and not without good reason, have preferred the* Arab *Writers barbarously translated, and slovenly* Bonatus *before* Julius Firmicus *and modern* Pontanus, *as spruce as they are. These two may rather be termed Grammarians, than Astrologers. Nor do* Aristotle's *crabbed Lectures of natural Philosophy discourage Interpreters or procure to themselves any discredit, by reason of the affected obscurity of speech, they are delivered in: and as to neatness of Poetry,* Apollo *himself hath been out-done by* Sappho, Homer, Hesiod. *Though the Matter doth often surpass the Workmanship; yet who is there is so rigid or so fond a Censurer, as to disparage and debase the Matter upon the account of the Workmanship? Which I would not have be said only of those passages, which I have brought into this Piece out of those fore-mentioned Authors, but also of the whole Body of our Common-Law. I have, I hope, not unluckily begun with the very first Inhabitants of this Isle, as far as we can come to the knowledge of them. Those Authors, whom I have followed in the*

Plutar. de audiendo.

Plutar. lib. orac. Pyth.

original

original of Story, I have, as it was meet, set down and remark'd, adding the Judgement and Censure of the Learned. Afterward, besides Cæsar *and* Tacitus *there are but few that afford us any help, and that but in few things too. For the name of* Brittany *was known but of late to the* Greeks, *but of late to the* Romans; *and the* Britans *were truly for a long while divided from all the world besides. But among Foreigners the latter Ages have enquired after them. I speak of* Strabo, Pliny, Ptolomy, *others; and a certain Writer of* Asia, Marcianus Heracleotes, *not yet, that I know of, turned into* Latin, *saith thus,* Albion **the British Isle hath in it Thirty Three Nations, Fifty Nine remarkable Cities**; *and then he subjoyns other things concerning the number of Rivers, Promontories, Havens and Creeks or Bays. I have stretched out this Piece to the death of King* Henry *the Son of* Mawd *the Empress by* Jeoffrey *the Count of* Angers *in* France. *In whose time, or near thereabout, are the first beginnings of our Law, as our Lawyers now account. There come in by the way* Richard *called* Cœur de Lion *and King* John; *but there is scarce any thing in that interim to our purpose. I have on purpose passed by Mr.* Lambard's Archæonomia (*or Antiquites of Law*) *without medling with it at all, only when some obvious accasion did sometimes suggest it for the explaining of what is set down by us. I have divided the whole into two Books; the* first *closes with the* Saxons; *the* second *begins with the* Norman *Conquest, the most famous* Æra *or Date of the* English *Government in the reckonings of time.*

Marcian. Heracleot. ex Ptolem. l. 5.

But however to refer the original of our English *Laws to that Conquest (as some make bold to do) is a huge mistake; forasmuch as they are of a far more ancient Date. For it is a remark amongst Statesmen, That new acquired Empires, do run some hazard by attempting to make new Laws: and the* Norman *did warily provide against this danger, by bestowing upon the yielding conquered Nation the requital of their ancient Law: a requital, I say, but more, as it should seem, for shew than use; and rather to curry favour with the people at the present, than in good deed for the advantage of the* English *Name. Wherein he in some measure followed well near the practice of* Alaricus, *who having conquered the* Romans, *and finding that they took it in dudgeon to be bound up by the Laws of the* Goths, *though in other things they were compliant enough, restored to them the* Roman *Laws, but by sly interpretations against the sense and meaning of the* Roman *Laws he drew these Laws back again to the* Gothish. *For the times on this side the* Normans *entrance, are so full of new Laws, especially such as belong to the right of Tenancy or Vassalage; though other Laws have been carefully enough kept up from the time of the* Saxons,

Philip. Honor. Thes. politic. Lat. & Ital. Machiavell in Principe & comment. ad Liv. l. 1. c. 25. & 26. Cujacius. Alber. Gentil. l. 3. c. 11. de jure bell.

Saxons, *and perhaps from an earlier date. For neither did the gliding Decrees of that Blazing-Star, which appeared in the* Easter *of that year, so well known for this Victory, prognosticate, as the change of the Kingdom (a thing which Astrologers affirm) so the abolition of our Laws; and yet in some sense peradventure an alteration of them both; at that rate, I mean, as* Jerom Cardan *writes, that the Comet in the year* 1533. *which appeared in* Aries *(to which Sign, our Island according to* Ptolomies *doctrine is lyable) under the North side of the Milky Way, being of a Jovial, Martial and Mercurial force and efficacy, was the fore-teller or fore-runner of the change of Religion; which happened three years after in* Henry *the Eighth's time. But whatever may be thought in other cases, Christianity is exempt from the Laws and over-ruling power of the Stars, and I do but too well perceive, that* Cardan's *piety is wanting in this and in other instances, and particularly in casting our Saviours Nativity. And why do I too much besides my purpose, trouble my self about these things here? Go thy wayes to our* Janus, *(for thou canst hardly chuse but own him having two faces) where to speak of our* English British *Law ('tis no Treason I trow so to call it)*

H. Cardan. in Prolem. l. 2. judic. astron. text. 54.

Nobilitas nec origo latet, sed luce sequente
Vincitur.——

Stat. 1. Silv.

That is,

It's noble rise doth not lye hid, but light
Attending makes it far more clear and bright.

For,

Si nobilitas cunctis exordia pandit
Laudibus, atque omnes redeunt in semina causæ.

Claudian. in laud. Serenæ uxor. Stilic.

That is,

If nobleness doth first commence all praise,
And all things from their seeds do themselves raise.

However it does not at all boast of its Romulus's, *its* Numa's, *its* Decemviri, *its* 2000. *Books, its* 4000. *and* 4000. *and* 4000. *Verses, and the like; which having been digested long since (as it were*

L. 2. Sect. 2. omnia. C. de vet. jur. enucl.

——non

Virg. Æn. 1. ——non hos quæsitum munus in usus,

That is,

A boon not purchas'd for such use as this)

do far and near bear sway in Courts of Law throughout all Europe; *yet is not the rise and original of our Laws also less to be regarded; nor is it perchance for distance of time further from* Iapetus *than they. But go thy wayes, I say, and see that thou dost not undertake without reason and good advice, to fit any thing to the present Age, otherwise than the changes, the repeals and cancelling parts of Laws, and new emergencies and vicissitudes of affairs, which were frequent, will give thee leave. Remember* Lucretius *in this case alike as in others.*

Lucret. l. 5. de rer. nat.

Quod fuit in pretio, fit nullo denique honore;
Porrò aliud succedit, & è contemtibus exit,
Inq; dies magis appetitur, floretque repertum
Laudibus, & miro'st mortaleis inter honore.

That is,

What was in price, at last hath no esteem;
Whilst somewhat else starts up, and gains repute,
And every day grows more in vogue and brute,
And mortals strangely do it highly deem.

According to what that other, and the greatest Philosopher among the Poets saith,

Virg. l. 11. Æneid.

Multa dies, variusque labor mutabilis ævi
Rettulit in melius.——

That is,

Time and the various toyl of changing age
Many things betters, and reforms the Stage.

And

And the Greek *sentence,*

Καιρὸς γάρ ἐστι τῶν νόμων κρείττων πολύ.

For time to Laws themselves gives Law full oft.

without a world of rubs in the way and slips or distances of years, I saw I was not able to put upon the work the face of a History, and to muster up all things that are wanting. Very many things are so effaced by injury of time, several things have been lost through neglect, nor is the Learned World under a small discontent, or at small variance by reason of this loss. These remains, which are left us, to be handled upon occasion, I have alwayes accounted pleasant researches: I, and perhaps one may say, that those Learned Pieces, which Pomponius, Rivallius, Zasius, Oldendorp, Brissonius, *and others, have published concerning the Twelve Tables, and the Laws written upon Oaken Planks, upon Elephants Skins, and in former Ages upon Brass, are not of more use and advantage for the City* Spire *in* Germany, *than these Collections may be for* Westminster-Hall *amongst us. We have said enough and to spare, concerning the model and frame of the Work. For me now to beg the Readers pardon, that I may speak a little concerning my self, seeing it was at my own choice, whether I would give him trouble or no, would be silly. If so be that any one shall shew himself more busie or pragmatical in these Writings of mine, than becomes him;*

Τὰ κωΐεια μηνὺς τοῖς ὀνείοις περάγμασιν, Aristoph. 177.

Not knowing (as we say) **a Pig from a Dog.**

I would not have him ignorant, that I value it no more than a rush, to be lashed with the flouts of prattle-boxes or tittle-tatlers, and such creatures as carry the Goddess Nemesis *on pickpack. Nor does any one that is in his wits, when an Ass kicks and flings at him to little or no purpose, regard an idle oafish affront so as to requite it. I paint upon my weather-boards* Averrunca, *i.e. God forefend, (as they did of old* Arse verse *upon houses, to preserve them from fire.) May* Intercedona, Pilumnus, *and* Deverra, *drive away* Silvanus, *and keep him off from doing this tender Infant any harm. Well! let Asses and silly Animals commend, find fault, tune their pipes, how they will:*

let the envious and ill natured with their sneerings, prate and talk; let snotty nosed Fellows and Clowns, that feed upon cockle bread, approve what I write, or let them flout and fleer, or let them play Jack of both sides; it's all fiddle faddle to me, nor would I put a straw between.

Hegesand. Delphus ap. Athen. dipnos. 4.

Οφρυαναστασίδαι, ῥινεγκαλαπηξιγένειοι,
Σακκογενειοδέφοι.

Brow-benders, making Nose and Chin to meet,
With dangling Beards like sacks down to your feet.

Ye rigid Cato's *and severe* Criticks, *do ye take in good part, what I have done; nor let me be altogether slighted, if by chance ye shall vouchsafe to look this way, nor with your skew looks fore-speak my harvest in the blade. I shall readily and willingly yield the conquest to him that fairly gets it, and rightfully corrects me. But whoever thou art of that sort of men,*

Horat. Carm. 3. Od. 18.

Per meos fines & aprica rura
Lenis incedas, abeasque parvis
Æquus alumnis.

O'er my bounds and sunny plain
Take a gentle walk or twain;
Then depart with friendly mind,
To me and my Lambkins kind.

Plin. epist. ad Nat. Hist.

You, that are candid and courteous, know, that 'tis a very hard matter to brighten things that are grown out of use, to furnish things obscure with light, to set off things that are disdained, with credit, to make things doubtful pass for probable, to assign to every thing its own nature, and every thing to its own nature; and that it is a very brave and gallant thing, *as he sayes,* for those that have not attained their design, yet to have endeavoured it; *when the Will* (as we say) *is accepted for the Deed. But I know too, that every* Cone *or point of vision in the* Opticks *differs from a right angle; and I know how odious a thing a Train or solemn Procession is in the publick Games. Therefore,* dear Reader,

Senec. præf. ad controver.

Reader, *I bid thee heartily farewel; and with a fortunate endeavour, fetch out hence, what may make for thy turn. Why do I delay all this while to let thee in?* Ἀλλ' ἴθι χαίρων. *Go thy wayes in, o' Gods name.*

Laudamus veteres, ſed noſtris utimur annis:
Mos tamen eſt æque dignus uterque coli. Ovid. Faſt. 1.

We praiſe old times, but make uſe of our own;
And yet 'tis fit they both alike be known.

Go in and welcome heartily; and be not unkind to thy Entertainer.

From the *Inner Temple London,*
Decemb. 25. 1610.

Τῆς ἀρχαιολογίας ἐρευνητῆρι φιλοπονωτάτῳ, καὶ τῷ τῆ Θέμιος Θιασώτῃ θαυμαστοτάτῳ Ἰωάννῃ τῷ Σιλοδόνῳ φιλτάτῳ.

Τῆς νομικῆς φιλέω τρεῖς ἀστέρας, ἕνεκα μοῦνοι
Συμπάντων νομικῶν εἰσὶν ἀρειότεροι.
Σεῖο πίνυς φιλέω Σιλόδυνε, Μάγιστρον ἔρεισμα
Εὐνομίης φιλέω, καὶ σὺ Βάκωνε φιλῶ
Ἐν σελίδεσι νόμων ἄνθη ἀστεροῦλας, ἀκανθῶν
Αντ' ἀναπτυξαμένης ὠφελίων τε νόον.

ΑΡΚΤΟΥΡ. ὁ ΛΩΣΓΟΣ.

In

In laudem dignissimi Authoris, & politioris literaturæ candidati, Carmen.

CUm Jovis effœti Pallas foret orta cerebro,
Vagitus teneros virgo patrima dedit.
Accurrit, tacitéque novam subducere prolem
Tentat, & abstrusis abdere Juno locis.
Jupiter ingenuam solerti indagine natam
Quæritat, & celeri permeat astra pede;
Stat, cerebrique tuam cernens, *Seldene*, Minervam
In natæ amplexus irruit ille tuæ.
Atque suam credit; parilique ab imagine formæ
Illa fuit suavis, suavis & illa fuit.
Lisque foret, nisi quæ quondam Lucina fuisset,
Musarum testis turba novena fuit.
Quam cognata Jovis tua casta Minerva Minervæ est,
Cum tantum fallax lusit imago Deum?

ALIUD.

DUm tuus ambiguâ *Janus*, facieque biformi
Respicit antiqua, & posteriora videt:
Archivos Themidis canos, monumentaque legum
Vindicat à veteri semi-sopita situ.
Hinc duplex te *Jane* manet veterane corona,
Gratia canitie, posteritate decus.

Gulielmus Bakerus Oxon.

ASTRÆÆ

ASTRÆÆ BRIT.

ULtima cælicolûm terras Astræa reliquit.
Tu tamen alma redi & terras Astræa revise :
Astræa alma redi tuis Britannis :
Et diva alma fave tuis Britannis :
Et diva alma fove tuos Britannos :
Et diva alma regas tuos Britannos :
Cantemus tibi sic tui Britanni :
Fœlices nimium ô tui Britanni :
Tu tandem alma redis divum postrema Britannis :
Ultima cœlicolûm terras Astræa revisit.

Alma redi. sacro redolent altaria fumo
Et tibi sacratis ignibus. *Alma redi.*
Alma redi. posuit Liber hic primordia juris
Anglos quo poteris tu regere. *Alma redi.*
Alma redi. tibi templa struit *Seldenus* : at aram
Qui tibi nil potuit sanctius. *Alma redi.*

E. Heyward.

In Epigraphen Libri Carmen.

QUisnam Iò mussat ? Posuisti Enyo
Arma ; jam doctos Iber haùt Batavos
Marte turbat ; Fœdere jam *Britannus*
Continet Orbem.
Clusium Audax quis reserat latentem ?
Falleris. Diæ *Themidis* recludo
Intima. Hæc portâ meliùs feratâ
Pandit *Eanus.*

I. S.

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THE

THE FIRST

BOOK

OF THE

ENGLISH JANUS.

From the Beginning of the BRITISH Story down to the NORMAN Conquest.

CHAP. I.

The counterfeit Berosus *with the Monk that put him forth, both censured. The Story of* Samothes *the first* Celtick *King. The bounds of* Celtica. *From* Samothes, *say they, the* Britans *and* Gauls *were called* Samothei. *For which* Diogenes Laertius *is falsly quoted; the word in him, being* Semnothei.

THERE came forth, and in Buskins too (I mean, with Pomp and State) some parcels of years ago, and is still handed about every where, an Author, called *Berosus* a *Chaldee* Priest (take heed how you suffer your self to believe him to be the same that *Flavius Josephus* so often up and down quotes for a witness) with a Commentary of *Viterbiensis*. Or, rather to say that which is the very truth, *John Annius* of *Viterbium* (a City of *Tuscany*) a *Dominican* Frier, playing the *Leger-de-main*, having counterfeited *Be-*

rosus,

rosus, to put off his own strange stories, hath put a cheat upon the Lady *Muse* who is the Governess of Antiquities, and has hung a Bantling at her back.

After the Genealogies of the *Hebrews* drawn down by that Author, whoever he be, according to his own humour and method, for fear he should not be thought to take in the Kingdoms and Kings of the whole Universe, and the Etymologies of Proper Names by whole-sale, as we say; as if he had been born the next day after Grandam *Ops* was delivered of *Jupiter*, he subjoyns SAMOTHES (the very same who is ycleped *Dis*) the Founder of the *Celtick* Colonies, stuffing up odd Patcheries of Story to entertain and abuse the Reader.

Now, this I thought fit by the by, not to conceal, that all that space which is bounded with the River *Rhine*, the *Alpes*, the *Mediterranean* Sea, the *Pyrenean* Hills, and lastly, the *Gascoin* and the *British* Oceans, was formerly termed *Celtogalatia*; nay, that *Ptolomy* hath comprized all *Europe* under the name of *Celtica*.

Ptol. 2. Geogr. & 2. quadrip. & Pausan. l. 1.

Well, as the Commentary of *Annius* has it, "This *Samothes* was "Brother to *Gomar* and *Tubal* by their Father *Japhet*, from whom first "the *Britans*, then the *Gauls* were called *Samothei*; and especially the "Philosophers and Divines that were his followers. And out of *Laertius* he tells us, "For it is evident, that among the *Persians* the "*Magi* flourished, among the *Babylonians* and *Assyrians* the *Chaldeans* "were famous, among the *Celts* and *Gauls* the *Druids*, and those who "were called *Samothei*; who, as *Aristotle* in his Magick, and *Sotion* in "his Three and Twentieth Book of Successions do witness, were men "very well skilled in Laws Divine and Humane, and upon that account "were much addicted to Religion; and were for that reason termed "*Samothei*. These very words you meet with in *Annius*.

The name of *Laertius* is pretended, and the beginning of his Volume concerning the Lives of Philosophers. Why then let us read *Laertius* himself; "and amongst the *Celts* and *Gauls* (saith he) the *Semnothei* "as saith *Aristotle* in his Book of Magick, and *Sotion* in his Three and "Twentieth of Succession. Concerning the *Samothei* any other wayes there is not so much as one syllable. That they were men well skilled in Laws Divine and Humane, or that they had their name given them upon that account, only the *Latin* and foisted Edition of B. *Brognol* the *Venetian* has told us: whereas in truth, in all the ancient *Greek* Copies of *Laertius*, which that great Scholar *Harry Stephen* saw and consulted with (and he sayes he perused Eight or Nine) there is no mention at all made of that business.

And yet for all that, I cannot perswade my self, that it was only for want of care, or by meer chance, that this slipt into the Glosses: It does appear, that there have been able Lawyers and Master Philosophers not only among the *Greeks*, the *Gauls*, and those of *Italy*; but also among the *Northern* Nations, however Barbarous. Witness the *Druids* among us, and among the *Goths*, as *Jornandes* tells us, besides *Cosmicus*, one *Dicenens*, who, being at once King of Men, and Priest of *Phœbus*, did together with Natural Philosophy and other parts of good Learning, transmit to posterity a Body of Laws, which they called *Bellagines*; that is, By-Laws.

Jornand. de reb. Goth. c. 11.

There are some, who in *Laertius* read *Samothei*; which is a device of those men, who with too much easiness (they are *Isaac Casaubon*'s words) that I may say no worse, suffer themselves to be led by the Nose by that counterfeit *Berosus*.

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CHAP. II.

An Account of the Semnothei. *Why so called; the opinion of* H. Stephen, *and of the Author. Old Heroes and Philosophers went by the names of Demy-gods. The* Σεμναὶ θεαὶ *or* Venerable Goddesses, *the same as* Eumenides, *dispensers of Justice. And by* Plutarch *and* Orpheus *they are set for Civil Magistrates. Judges in Scripture so called* Elohim, i. e. *Gods. These* Semnai theai *the same as* Deæ Matres *in an old British Inscription.*

AND indeed if the *Samothei* had any thing to do with truth, or the *Semnothei* any thing to do with the ancient Law of the *Celts* (in as much as they write, that *Britany* was once in subjection to the *Celtick* Kings) I should judge it not much beside the design of my intended Method to inquire into the name and nature of them both. But they being both one and t'other past all hope, except such a one as *Lucian* returning from the Inhabitants of the Sun, or those of the Moon, would write their History, to speak of them would be more than to lose ones labour. I dare not to say much of them.

"I imagine, sayes *Harry Stephen*, they were so called, for having the "Gods often in their mouths, and that in these words, οἱ Σεμνοὶ Θεοὶ, "that is, *The Worshipful Gods*; or for that they themselves were ac-"counted amongst men as a kind of Worshipful Gods: but, writes he, "this latter I do not take to be so likely as the former. But say I for my part, if I might venture my opinion against the judgement of so great a person, I guess this latter to be the likelier of the two. Steph. ad Laert.

That the old *Heroes* went by the names of Gods, is a thing we read every where; nor did Antiquity grudge the bestowal of this honour even upon *Philosophers*. Not upon *Amphiaraus* the Prophet; not upon *Æsculapius*, not upon *Hippocrates*, renowned Physicians; they are reckoned among the middle sort of Gods. Thus *Plato* also was accounted by *Antistius Labeo* for a Demy-god, and *Tyrtamus* for his Divine eloquence, had the name of *Theophrastus* (that is, God-like Speaker) given him by his Master *Aristotle*. No wonder then, if thereupon thence forward great Philosophers were called *Semnothei*, and as it were Worshipful Gods. These instances incline me, whilst I only take a view of their Philosophy; whom, if either the authority of *Annius*, or the interpretation of *Brognol* had sufficiently and fairly made out to have been also at the same time Students and Masters of Law, I should hardly stick almost to affirm, that I had found out in what places the true natural spring and source both of their name, and as I may say, of their delegated power is to be met with. Aug. de Civ. Dei, l. 2. c. 14. Laert. lib. 5.

For I have it in *Pausanias* (forbear your flouts, because I waft over into *Greece*, from whence the most ancient Customs both Sacred and Prophane of the *Gentiles* came) I say in *Pausanias* the most diligent searcher of the *Greek* Antiquities, I meet upon *Mars* his Hill at *Athens*, and also in his *Achaicks* (or Survey of *Achaia*) with Chappels of the Goddesses whom the *Athenians* styled Σεμνὰς, that is, *Worshipful*. He himself

himself also in his *Corinthiacks* makes mention of a Grove set thick with a sort of Oaks on the left side of *Asopus* a River in *Sicyon* (a Countrey of *Peloponnesus*) where there stood a little Chappel of the Goddesses, whom the *Athenians* termed *Semnai*, the *Sicyonians* called *Eumenides*. The story of *Orestes* and the *Eumenides* or Furies that haunted him is known to every body, nor can you tell me of any little smatterer in Poetry, who doth not know, that they, together with *Adrastia*, *Rammusia*, *Nemesis*, and other Goddesses of the same stamp, are pretended to be the Avengers of Villanies, and continually to assist *Jupiter* the great God in punishing the wicked actions of Mortals. They were black ones that met with *Orestes*, but that there were white ones too, to whom together with the *Graces* the Ancients paid their Devotions; the same *Pausanias* has left written in his Survey of *Arcadia*. I let pass that in the same Author, she whom some called *Erinnys*, that is a *Fury*; others called *Themis* the Goddess of *Justice*.

To be brief and plain; the *Furies*, that is, the Avenging Goddesses sit upon the skirts of the wicked; but the *Eumenides*, that is, the kind Goddesses, as *Sophocles* interprets them (for that they were so called properly without the Figure of *Antiphrasis* or contradiction he is our Author) do attend the good and such as are blameless and faultless, and poor suppliants. Nay, moreover *Plutarch* writes in a Poetick strain, that *Alcmæon* fled from these *Eumenides*; meaning in very deed, that he made his escape from the Civil Magistrates. In a word, the whole business we have been aiming at, *Orpheus* comprieth in two Verses of that Hymn he has made upon those Goddesses.

Soph. in Oedip. in Colon.

Plut. in lib. de Exilio.

Nat. Comes, Mythol. l. 3. c. 10. Plut. de Iside & Osiride.

Ἀλλ' αἰὲν θνητῶν παίτων ἐπ' ἀπείρονα φῦλα
Ὄμμα δίκης ἐφορᾶτε δικαιοπόλοι αἰὲν ἐοῦσαι.

which in a short Paraphrase speaks thus;

But ye with eye of Justice, and a face
Of Majesty survey all humane race,
Judges commission'd to all time and place.

See here plainly out of the most ancient Divine among the Heathens, how Judges and the Dispensers of Law pass under the notion of these *Venerable Goddesses*: and it was a thing of custom to term the Right of the Infernal Powers, as well as the Doctrine of the Heavenly ones, a thing Holy and Sacred. What hinders then I pray, but that one may guess, that the Name, and Title, and Attributes or Characters of the *Semnothei* sprang forth and flowed from hence; to wit, from the *Semnai theai* or Venerable Goddesses?

Odyss. 3.

Exod. 22. Psal. 82. 2 Paral. 19. Munst. ad Gen. c. 9. Plut. de serâ Dei vindictâ.

Homer in his Poems calls Kings διοτρεφεῖς, that is, persons bred and nourished by *Jove*; yea, the Eternal and Sacred Scriptures themselvs do more than once call Judges by that most holy name *Elohim*, that is, *Gods*. "*The* "*judgement is Gods, not Mans*; and (as *Munster* remarks out of *Rabbi Kimchi*) whatsoever thing Scripture designs to magnifie or express with "height, it subjoyns to it the name of God. God (as *Plutarch* has it out of *Plato*, who in his *Attick* style imitates our *Moses*) hath set himself out as a pattern of the Good, the dreadful syllables of whose very not-to be-uttered Name (though we take no notice of the *Cabalists* art) do strike, move and twitch the ears of Mortals, and one while when thorough

thorough ignorance they straggle out of the way, do bring them back into the path or track of Justice; another while when they are stopt up with prejudice, and are overcast with gloomy darkness, do with a stupendous, dismal and continual trembling shake the poor wretches, and put them into Ague-fits. Nor let that be any hindrance, that so splendid and so manly a name is taken from the weaker Sex, to wit, the Goddesses.

Let us more especially have to do with the *Britans*, as those amongst whom are those choice and singular Altars, not any where else to be met with in the whole World, with this Inscription, DEIS MATRIBUS, *To the Mother-Goddesses*. Concerning these *Mother-Goddesses*, that excellent Learned Man (that I may hint it by the by) confesses he could with all his search find out nothing; but if such a mean person as I, may have leave, What if one should imagine, that those Goddesses, whom *Pausanias* in his *Attick* stories calls Γεννάδας καὶ Γεννετυλλίδας, were the same as these *Mother Goddesses?* for so those Names import. *The Mother of the Gods* is a Title well known; wherewith not only *Berecynthia*, but also *Juno*, *Cybele*, *Tellus*, *Ceres*, and other Shees among Mythologists are celebrated and made famous. Camden.

Be this, if you will, a thing by the by and out of the way; as he tells us, *No great Wit ever pleased without a pardon.* Relying upon that (the Readers Pardon I mean) I undertook this Job, whatever it is; and upon confidence of that, I come back to the business. Senec. Epist. 115.

CHAP. III.

One Law of Samothes *out of* Basingstoke *concerning the reckoning of Time by Nights.* Bodinus *his censure of Astrologers for otherwise computing their Planetary Hours. A brief account of some of* Samothes *his Successors*, Magus, Sarron, Druis, *from whom the* Druids, *&c.*

WE do not any where meet with any Law enacted by *Samothes* his authority. Yet one only one concerning the account of times, *Basingstoke* the Count *Palatine*, a very modern Historian, attributes to him. *He defined*, sayes he, *the spaces* or intervals *of all time, not by the number of dayes, but of nights* (the same thing, saith *Cæsar* of the *Gauls*, and *Tacitus* of the *Germans*) *and he observed birth-dayes, and the commencements of months and years in that order, that the day should come after the night.* Truth is, the *Britans* do at this time observe that fashion, which is most ancient, and highly agreeable to Nature. *And the Evening and the Morning was the first day*, and so on, sayes the *Hebrew* Writer, whose Countrey-men the *Jews* also followed this custom. Gen. 1.

The *Peripateticks* (*i.e.* the followers of *Aristotle*) do also at this rate reckon *Privation* in the number of their three Principles; and hereupon *John Bodin* adventures to censure the common Astrologers, that they, according to the course of the Planets as they order it, and repeat it over and over, begin their unequal hours, from the rising, rather than the setting of the Sun. Bodin. l. 3. dæmonomian.

They

They write, that after this *Samothes*, there came in play *Magus*, *Sarran*, *Druis*, *Bardus*, and others more than a good many, in order of succession. " *Sarron* was not addicted to make Laws ('tis *Stephanus Forcatulus* helps us to this) but to compose them, to put them into order, " and to recommend them to practice, as one who reduced those Laws, " which his Grand-father *Samothes*, and afterward his Father *Magus* had " made, into one Volume, and with severe Menaces gave order for the " keeping of them.

Forcat. l. 1. de Gall. Imp.

From *Druis* or *Druides* they will have the *Druids* so called, a sort of Philosophers so much famed and talked of in *Cæsar*, *Pliny* and others: believe it who list for me. The whole business of the *Druids* at present I put off till *Cæsar*'s times.

CHAP. IV.

K. Phranicus 900. *Years after* Samothes *being to reside in* Pannonia, *intrusts the* Druids *with the Government. In the mean time* Brutus, Æneas *his Grand-son, arrives and is owned King by the* Britans, *and builds* Troynovant, *i. e.* London. Dunvallo Molmutius 600. *years after is King, and makes Laws concerning Sanctuaries, Roads or High-wayes and Plow-lands. K.* Belin *his Son confirms those Laws, and casts up four great Cause-wayes through the Island. A further account of* Molmutius.

About Nine hundred years after *Samothes*, King *Phranicus* (take it from the *British* story, and upon the credit of our *Jeoffry*) intrusts the *Druids* with the management of affairs, whilst he himself resided in *Pannonia* or *Hungary*.

In the mean time *Brutus*, the Son of *Sylvius Posthumus* King of the *Latines*, and Grand-child to *Æneas* (for *Servius Honoratus* in his Comment upon *Virgil*, makes *Sylvius* to be the Son of *Æneas*, not of *Ascanius*) being happily arrived by Shipping, with *Corinus* one of the chief of his company, and coming to land at *Totnes* in *Devonshire*, the *Britans* salute and own him King. He after he had built *New Troy* (that is, *London*) gave Laws to his Citizens and Subjects; those such as the *Trojans* had, or a Copy of theirs.

Serv. ad 6. Æneid.

A matter of Six hundred years after *Dunvallo Molmutius* being King, ordained (my Authors besides *Jeoffry* of *Monmouth*, are *Ralph* of *Chester* in his *Polychronicon*, and *Florilegus*) " that their Ploughs, Temples " and Roads that led to Cities, should have the priviledge to be places " of refuge. But because some time after there arose a difference con- " cerning the Roads or High-wayes, they being not distinguished by " certain Limits and Bounds, King *Belin* Son of the foresaid *Molmutius*, " to remove all doubt, caused to be made throughout the Island four " Royal High-wayes to which that priviledge might belong; to wit, " the **Fosse** or **Dike**, **Watlingstrete**, **Ermingstrete**, and **Ikenild-** " **strete**. (But our Learned Countrey-man and the great Light of *Britan*, *William Camden*, *Clarenceaux* King at Arms is of opinion, these

these Cause-wayes were cast up by the *Romans*; a thing that *Tacitus*, *Bede* and others do more than intimate.)

"Moreover, so sayes *Jeoffry*, he ordained those Laws, which were "called *Molmutius* his Laws, which to this very time are so famed "amongst the *English*. Forasmuch as amongst other things, which "a long time after, *Gildas* set down in writing, he ordained, that the "Temples of the Gods, and that Cities should have that respect and "veneration, that whatsoever runagate Servant, or guilty person should "fly to them for refuge, he should have pardon in the presence of his "enemy or prosecutor. He ordained also, That the Wayes or Roads "which led to the aforesaid Temples and Cities, as also the Ploughs of "Husbandmen should be confirmed by the same Law: Afterwards "having reigned Forty years in peace, he dyed and was buried in the "City of *London*, then called *Troynovant*, near the Temple of Concord "(by which Temple, there are not wanting those who understand that Illustrious Colledge on the Bank of *Thames*, consecrated to the Study of our Common Law, now called **the Temple** and) "which he "himself had built for the confirmation of his Laws. At this rate *Jeoffry* tells the story; but behold also those things which *Polydore Virgil* hath gathered out of ancient Writers, whereof he wanted no store.

Norden in Brit. Speculi.

"He first used a Golden Crown, appointed Weights and Measures "for selling and buying of things, punisht Thieves and all mischie-"vous sorts of men with the greatest severity; made a great many "High-wayes; and gave order, how broad they should be, and ordai-"ned by Law, that the right of those Wayes belonged only to the "Prince; and set dreadful Penalties upon their heads, who should vio-"late that right, alike as upon theirs who should commit any misde-"meanour in those wayes. Moreover, that the Land might not "lye barren, nor the people be frequently oppressed or lessened "through Dearth or want of Corn, if Cattle alone should possess the "Fields, which ought to be tilled by men, he appointed how many "Ploughs every County should have, and set a penalty upon them by "whose means that number should be diminished: And he made a "Law, That Labouring Beasts which attended the Plough, should not "be distrained by Officers, nor assigned over to Creditors for money "that was owing, if the Debtor had any other Goods left. Thus much *Polydore*.

CHAP. V.

A brief Account of Q. Regent Martia, *and of* **Merchenlage**, *whether so called from her, or from the* Mercians. Annius *again censured for a Forger, and his* Berosus, *for a Fabulous Writer.*

THe Female Government of *Martia*, Widow to King *Quintiline*, who had undertaken the Tuition of *Sisillius* Son to them both, he being not as yet fit for the Government, by reason of his Nonage; found out a Law, which the *Britons* called the *Martian* Law. This also among the rest (I tell you but what *Jeoffry* of *Monmouth* tells me)

me) King *Alfred* translated, which in the *Saxon* Tongue he called **Merchenlage.** Whereas nevertheless in that most elaborate Work of *Camden*, wherein he gives account of our Countrey, **Merchenlage** is more appositely and fitly derived from the *Mercians*, and they so called from the *Saxon* word Meapc, that is, a Limit, Bound or Border.

These are the Stories, which Writers have delivered to us concerning those times, which were more ancient than the History of the *Romans*; but such as are of suspected, of doubtful, that I may not say of no credit at all. Among the more Learned, there is hardly any Critick, who does not set down *Annius* in the list of Forgers. And should one go to draw up the account of Times, and to observe that difference which is so apparent in that *Berosus* of *Viterbium* from Sacred Scriptures, and the Monuments of the *Hebrews*, one would perhaps think, that he were no more to be believed, than another of the same name, who from a perpendicular position of the wandring Stars to the Center of the World in the Sign of *Cancer*, adventured to foretel, that all things should be burnt; and from a like Congress of them in *Capricorn*, to say, there would be an universal Deluge. The story is in *Seneca*.

Senec. Nat. quæst. l. 3 c. 29

CHAP. VI.

The story of Brutus *canvast and taken to be a Poetick Fiction of the Bards.* Jeoffry *of* Monmouth's *credit called in question. Antiquaries at a loss in their judgements of these frivolous stories.*

SOme have in like manner made enquiry concerning our *British* History, and stumbled at it. From hence we had *Brutus*, *Dunvallo* and Queen *Martia*: There are some both very Learned and very Judicious persons, who suspect, that that story is patched up out of Bards Songs and Poetick Fictions taken upon trust, like *Talmudical* Traditions, on purpose to raise the *British* name out of the *Trojan* ashes. For though Antiquity, as one has it, is credited for a great witness; yet however 'tis a wonder, that this *Brutus*, who is reported to have killed his Father with an Arrow unluckily aimed, and to have been fatal to his Mother at her very delivery of him (for which reason *Richard Vitus* now after so many Ages makes his true name to be Βροτὸς, that is, *Mortal*) should be mentioned by none of the *Romans*: a wonder, I say, that the *Latin* Writers should not be acquainted with the name of a *Latin* Prince, who gave both Name and Government to *Britany*. Did *Euemerus Messenius* alone ever since the World began, sail to the *Panchoans* and the *Triphyllians*? Indeed it is an ordinary thing for Poets, to ingraft those whom they celebrate in their Poems, into Noble Stocks and Illustrious Families, and by the assistance of their Muses heightning every thing above the truth, to feign and devise a great many stories. And what else were the *Bards*, as *Athenæus* tells us out of *Possidonius*; but Poets reciting mens praises in song? How many things are there in that Fabulous Age (which in *Joseph Scaliger*'s account would more aptly be called the *Heroick* Age of the World, I mean) down from that much

Athen. dipnos. l. 6.

Jos. Scal. in Elench. Orat. Chron. D. Par.

much talked of Deluge of *Pyrrha* to the beginning of *Iphitus* his Olympiads; how many idle stories are there mixt with true ones, and afterwards dreſt up and brought upon the ſtage? "Very many Nations, "ſayes *Trithemius*, as well in *Europe* as in *Aſia*, pretend they took their "original from the *Trojans*; to whom I have thought good to lend ſo "much faith, as they ſhall be able to perſwade me of truth by ſufficient teſtimony. They are frivolous things, which they bring concerning their own Nobility and Antiquity, having a mind as it were openly "to boaſt, as if there had been no people in *Europe* before the deſtruction of *Troy*; and as if there had been no one among the *Trojans* "themſelves of ignoble birth. Trithem. lib. de ſecundis.

He who made the Alphabetical *Index* to *Jeoffry* of *Monmouth* (who was Biſhop of St. *Aſaph* too) as he is printed and put forth by *Aſcenſius*, propt up the Authors credit upon this account, that, as he ſayes, he makes no mention any where in his Book, of the *Franks*; by reaſon forſooth, that all thoſe things almoſt, which he has written of, were done and paſt before the *Franks* arrival in *France*. This was a ſlip ſurely more than of memory. Go to *Jeoffry* himſelf, and in his Nineteenth Chapter of his firſt Book you meet with the *Franks* in the time of *Brennus* and *Belinus* among the *Senones*, a people of *France*: a groſs miſreckoning of I know not how many hundred years. For the *Franks* are not known to have taken up their quarters on this ſide the River *Rhine*, till ſome Centuries of years after *Chriſts* Incarnation. For howbeit by Poetick licence and Rhetorical figure *Æneas* be ſaid to have come to the *Lavinian* Shores, (which had not that name till ſome time after) yet it were much better, that, both in Verſe and Proſe, thoſe things which appertain to Hiſtory, ſhould be expreſſed according to that form of *Ovid*; where at the burning of *Rhemus* his Funeral Pile he ſayes,

Tunc Juvenes nondum facti flevere Quirites; Ovid. 4. Faſt.

that is,

The young men then not yet Quirites made,
Wept as the body on the Pile they laid.

And at this rate *Jeoffry* might and ought to have made his Tranſlation, if he would have been a faithful Interpreter.

But as to our *Brutus* whence the *Britans*, *Saxo* whence the *Saxons*, *Bruno* whence thoſe of *Brunſwick*, *Freſo* whence thoſe of *Friſeland*, and *Bato* whence the *Batavians* had their riſe and name, take notice what *Pontus Heuterus* obſerves, as others have done before him. "Songs or "Ballads, ſayes he, and Rhymes made in an unlearned Age, with eaſe "obtruded falſhoods for truths upon ſimple people, or mingling falſehoods with truths impoſed upon them. For three or four hundred "years ago there was nothing that our Anceſtors heard with greater "glee, than that they were deſcended from the adulterous *Trojans*, from "*Alexander* of *Macedonia* the Overthrower of Kingdoms, from that Man-"queller *Hercules* of *Greece*, or from ſome other diſturber of the World. And indeed that is too true which he ſayes, Heuter. de Vet. Belgio. l. 2. c. 8.

 ——*Menſu-*

Ovid. Metam. 12.

——Mensuraque fictis
Crescit, & auditis aliquid novus adjicit auctor.

which in plain English speaks this sence.

Thus Stories nothing in the telling lose,
The next Relater adding still to th' News.

But I will not inlarge.

To clear these points aright, Antiquaries, who are at see-saw about them, will perhaps eternally be at loss, like the *Hebrews* in their mysterious debates, for want of some *Elias* to come and resolve their doubts.

CHAP. VII.

What the Trojan *Laws were, which* Brutus *brought in. That concerning the Eldest Sons Inheriting the whole Estate, confuted. In the first times there were no Positive Laws; yet mention made of them in some very ancient Authors, notwithstanding a remark of some ancient Writers to the contrary.*

WEll! Suppose we grant there was such a Person ever in the World as *Brutus*: He made Laws, they say, and those taken out of the *Trojan* Laws; but what I pray were those *Trojan* Laws themselves? There is one, I know well enough, they speak of, concerning the Prerogative of the eldest Sons, by which they inherited the whole Right and Estate of their deceased Father. *Herodotus* writes it of *Hector*, Son and Heir to King *Priam*, and *Jeoffry* mentions it; but did this Law cross the Sea with *Brutus* into *Brittany*? How then came it, that the Kingdom was divided betwixt the three Brothers, *Locrinus*, *Camber*, and *Albanactus*? betwixt the two, *Ferrix* and *Porrix*? betwixt *Brennus* and *Belinus*? and the like of some others. How came it, that in a Parliament of *Henry* the Eighth, provision was made, that the Free-holds of *Wales* should not thence-forward pass according to that custom, which they call **Gavelkind**? And anciently, if I be not mistaken, most Inheritances were parted among the Children, as we find in *Hesiods* works.

Herodot. in Euterpe.

Stat. 37 Hen. 8. c. 26.

Ἤδη μὲν γὰρ κλῆρον ἐδασάμεθ'.——

i. e. **We had already parted the Estate.**

And to the same purpose many like passages there are in old Poets, and in Holy Writ. But, as I said, what are those *Trojan* Laws? Perhaps the same with those, by which *Nephelococcygia*, the City of the Birds in *Aristophanes*, (or, as we use to say, *Utopia*) is Governed.

The gravest Writers do acknowledge, that those most ancient times were for the most part free from positive Laws. *The people*, so says *Justin*, *were held by no Laws: The Pleasures and Resolves of their Princes past for Laws, or were instead of Laws.* Natural Equity, like the *Lesbian* Rule

Justin hist. l. 1.

Rule in *Aristotle*, being adapted, applied, and fitted to the variety of emergent quarrels, as strifes, ordered, over-ruled, and decided all Controversies. "And indeed at the beginning of the *Roman* State, "as *Pomponius* writes, the people resolved to live without any certain "Law or Right, and all things were governed by the hand and power of the King: For they were but at a little distance from the Golden Age, when

Arist. 5. Eth.

ff. de Orig. jur. l. 2.

——— *vindice nullo*
Sponte suâ sine lege fidem rectumque colebant.

Metam. 1. & Lucr. l. 5. cum Poetarum turba.

That is to say, when

——— **People did not grudge**
To be plain honest without Law or Judge.

That which the Heresie of the *Chiliasts* heretofore affirmed, concerning the Sabbatick or seventh Millenary, or thousand years of the World. And those Shepherds or Governors of the people, to whom

August. de civ. Dei l. 19. c. 14.

——— Ζεὺς ἐγγυάλιξε
Σκῆπτρον τ' ἠδὲ θέμιστας———

Hom. Iliad. 9.

that is,

——— **Into whose hand**
Jove trusts his Laws and Scepter for Command.

did Govern them by the guidance of vertue, and of those Laws which the *Platonicks* call the Laws of *second Venus*. "Not out of the ambition "of Rule, as St. *Austin* hath it, but out of duty of Counsel; nor out of "a domineering pride, but out of a provident tenderness. Do you think the *Trojans* had any other Laws? Only except the worship of their Gods and those things which belong to Religion. *It was duty*, says *Seneca, not dignity, to Reign and Govern*: And an Eye and a Scepter among the *Ægyptians*, were the absolute Hieroglyphicks of Kings.

Senec. ep. 91. Plut. de Isid. & Osirid.

What? that there is not so much as the word NOMOΣ, that is *Law*, to be met with in those old Poets, *Orpheus*, *Musæus*, or *Homer*, (who was about an hundred and fifty years after the destruction of *Troy*) as *Josephus* against *Appio*, *Plutarch*, and several modern Writers have remarked: I confess, if one well consider it, this remark of theirs is not very accurate. For we very often read in *Homer* and *Hesiod*, the word θέμιστες, which signifies *Laws*; and in both of them the Goddess *Eunomia* from the same Theme as Νόμος.

Joseph. adv. App. l. 2. Plut. in lib. de Homero.

Αὐτὰρ δ' εὐνομίην πόλιν ἔχετ' ἠλλιγάβαιξε,
Κοιρανέουσ'———

which being interpreted, is

But they by legal methods bear the sway
I'th' City fam'd for Beauties.——

Plut. lib. de Musicâ. which is a passage in *Homers* hymn to Mother *Tellus*, and Νόμος ἀοιδῆς, *i. e. the Law of Song*, (which Musicians might not transgress) is mentioned in his hymn to *Apollo*. Nay great *Plato*, one beyond all exception, has left it in writing, that *Talus* (who had the management of the *Cretan* Common-wealth committed to him, together with *Rhadamanthus*, the Son of *Jupiter*, by King *Minos*) that he did thrice every year go the circuit through the whole Island (which was the first Country, as *Polyhistor* tells us, that joyned the practice of Laws with the study of Letters) and kept Assizes, giving Judgment according to Laws engraven in brass. I say nothing of *Phoroneus* King of the *Argives*, or of *Nomio* the *Arcadian*; and in good time leave this Subject.

Plato in Minoc.

Sol. Polyhist. cap. 6.

I could wish I might peruse *Jupiters* Register, wherein he has recorded humane affairs. I could wish, that the censure of some breathing Library and living study (which might have power over the Ancients, as we read in *Eunapius* that *Longinus* had) or that the memory of some *Æthalides* might help us sufficiently to clear and make out the truth.

Eunap. in vit. Porphyr.

Hence our next passage is to the Classick Writers of the *Latin* style and story.

CHAP. VIII.

An Account of the DRUIDS out of Cæsar's *Commentaries, whence they were so called. Their determining in point of Law, and passing Sentence in ease of Crime. Their Award binds all parties. Their way of Excommunicating or Outlawing. They have a Chief over them. How he is chosen. Their Priviledge and Immunity.*

Cajus Julius Cæsar was the first of the *Romans*, who has committed to writing the Religious Rites, the Laws and the Philosophy of the *DRUIDS*. Their name is of a doubtful origination, by no means were they so called from that *Druis* or *Druides* we meet with in *Berosus*: But whether they were so termed from a Greek word Δρῦς, that signifies an *Oak*, in that they performed none of their devotions without oaken leaves, as *Pliny* and those that follow him are of opinion; or from the Dutch **True-wise**, as *Goropius Becanus* will have it; or from **Trutin**, a word which with the ancient *Germans* signified *God*, as *Paulus Merula* quotes it out of the Gospel of *Othfred* (though in the Angels salutation, in the *Magnificat*, in *Zachariahs* Song and elsewhere, *Trutin* rather denotes *Lord* than *God*; and see whether there does not lye somewhat of the *Druid* in the name of St. *Truien*, among the people of *Liege*, some having exploded St. *Drudo*) whencesoever they had their name, these Gownmen among the *Gauls*, I and the *Britans* too, were the Interpreters and Guardians of the Laws. The discipline of these *Druids* was first found in *Britany*, and so far as it regards the Civil Court, we shall faithfully subjoyn it out of the forenamed *Cæsar*.

Plin. nat. hist. l. 16. c. 44. Gorop. in Gal. Paul. Merula, in Cosmogr. part. 2. lib. 3.

1. " They order matters concerning all controversie, publick and private. So in the Laws of the twelve Tables at the same rate the knowledg of cases, of precedents, of interpreting was in the Colledge

of Pontiffs or High Priests, and such plainly our *Druids* were. "If any "ill prank had been played, if murder committed, if there were a controversie about Inheritance, about bounds of Land, these were the men "that determined it, these amerced rewards and punishments.

2. "If any private person or body of men do not stand to their award, "they excommunicate him, that is, forbid him to come to sacrifice, "which among them is the most grievous punishment.

3. "Those who are thus excommunicated, are accounted wicked and "ungodly wretches, every body goes out of their way, and shuns their "company and conversation for fear of getting any harm by contagion. "Neither have they the benefit of the Law when they desire it, nor is any respect shown to them.

4. "The *Druids* have one over them, who has the chiefest authority "amongst them.

5. "When he dies, if there be any one that is eminent above the rest, he "succeeds in place: But if there be several of equal merit, one is chosen "by majority of Votes.

6. "The *Druids* were wont to be excused from personal attendance "in War, nor did they pay taxes with the rest; they were freed from "Military employ, and had an immunity of all things. The *Levites* among the *Hebrews*, who were the most ancient Priests in the world, "injoyed the same priviledge. Num. 1. 49. Ezra 7. 24.

CHAP. IX.

The menage of their Schools without Writing. On other occasions they might use the Greek *Letters, as* Cæsar *saith, yet not have the language. The* Greek *Letters then were others than what they are now. These borrowed from the* Gauls, *as those from the* Phœnicians. **Ceregy-Dzudion**, *or the* Druids Stones *in* Wales. *This Place of* Cæsar's *suspected.* Lipsius *his Judgment of the whole Book.*

7. UPon the account of that priviledge, they had in their Schools (which were most of them in *Britany*) a great confluence of youth. "They are said to learn without Book, says *Cæsar*, a great number of Verses: Therefore some of them spend twenty years in the discipline. Nor do they judge it meet to commit such things to writing, "whereas generally in all other, whether publick affairs or private accompts, they make use of *Greek letters*.

What? *Greek letters?* so we read *Greek* ones. Why! *Marseilles*, a City of *France*, which was a Greek Colony of the *Phocians*, had made the *Gauls* such lovers of *Greeks*, that, as *Strabo* the Geographer tells us, they writ their very Contracts and Covenants, Bargains and Agreements, in *Greek*. The fore-mentioned *Julius Cæsar* also writes, that there were Tablets found in the Camp of the *Switzers*, made up of *Greek* letters. Strab. Geogr. lib. 4. Cæs. de bello Gall. L. 1.

But, for all that, I would not have any one from hence rashly to gather, that the *Greek Language* was in use to that Age and People, or to these Philosophers and Lawyers. They made use of *Greek letters*, therefore

fore they had the *Greek Tongue* too; this truly were a pitiful consequence. At this rate the *Targum* or *Chaldee Paraphrase*, as *Paulus Merula* has it, and *Goropius* before him, would consist of the *Hebrew Language*, because 'tis Printed in *Hebrew Characters*: And the like may be said of the *New Testament* in *Syriack*, done in *Hebrew letters*.

What? that those very Letters of the *Greeks* in *Cæsars* time, and as we now write them, are rather *Gallick* (as borrowed from the *Gauls*) than *Greek*? He was acquainted with those *Greek* letters, but did not yet know the *Gallick* ones, which learned men do think the *Greeks* took for their Copy, after the *Phœnician* letters, which were not altogether unlike the *Hebrew*, were grown out of use. Consult for this *Wolfgangus Lazius* his *Celtæ*, *Becanus* his *Gallica*, and if thou hast a mind, *Annius* his *Archilochus*, *Xenophons Æquivoca*, and what others write concerning *Linus*, *Cadmus*, *Palamedes*, and *Simonides*, the first Inventors of the Alphabet.

In the mean time take this from me, that those ancient and rude *Gothick* Characters, which *Bonaventure Vulcanius* of *Bruges*, lately put forth, with a little comentary of one without a name, do very much resemble the *Greek* ones (as also the *Russian* Characters do at this day) and that those which are now *Latin* letters, were at first brought over into *Italy* out of *Arcadia*, along with *Nicostrata* the Mother of *Evander*, who was banished his Country.

Vulcan. in app. ad Jornand. Goth. Munst. Cosm. l. 4.

But that which seems to put the matter out of all dispute, *Cæsar* being about to write to *Quintus Cicero*, who was then besieged somewhere in *Flanders*, among the *Nervians*, by great rewards perswades a Chevalier, that was a *Gaul*, to carry the Letter for him: He sends it written in *Greek*, lest peradventure it being intercepted, the Enemy should come to know their design. To what purpose should he have done this, if that Chevalier, who was a *Gaul*, or if the *Gauls*, or if the very *Druids* themselves, who had the management of State, had been skilled in *Greek*?

Caes. bell. Gal. l. 5.

Among the Western Hills of *Denbeigh*, a County in *North-Wales*, there is a place, as I read in our famous Chorographer, commonly called "Ceregy-Drudion, that is, the *Druids Stones*, and some small pillars are seen at *Tvoellas*, inscribed with foreign Characters, which "some suspect to have been those of the *Druids*. Who if they have reason so to suspect, I would to God, Time, with his rusty teeth, had spared those Pillars, that so some light might shine from thence to clear this quarrel.

If so be our interpretation of that form of *Cæsars* speaking, which we brought, do not please (as to *Strabo's* testimony, that respects somewhat later times, and perhaps mainly concerns those who lived near the Sea-side) why mayst not thou, with that great Scholar *Francis Hotoman* be of opinion, that the word *Græcis* crept into this Story, either by the carelesness or confidence of Transcribers? For elsewhere in that very Author, where it is said, *dextris humeris exertis*, *Justus Lipsius*, the Prince of *Criticks*, remarks, that the word *humeris* is plainly redundant, thrust in perchance by the Vamper of that Story, *Julius Celsus*.

Hotoman c. 2. Franco galliæ.

Caes. bell. Gal. l. 7.

And what so great a man, of so great a judgment as he was, did censure of those Commentaries of *Cæsar*, in his Book called *Electa*, or *Choice Piece*, take from himself thus. "I see many patches stitched into that "Purple; nor doth the expression it self there every where breath to my "Nostrils that golden (as I may so say) Gum, or liquid myrrh, of pure "antiquity. Read it, read it over again, you will find many things idly "said,

Lips. Elect. lib. 2. cap. 7. & quæst. Epistolic. l. 2. c. 2.

"said, disjoynted, intricate, vampt, said over and over, that it is not "unreasonable to think, but that some Novel and unskilful hand "was added to this, as it were, statue of ancient work. Therefore we may be easily cheated, if we stand upon such little scruples of words, as we shall meet with in one *Julius* or other, *Cæsar* or *Celsus*.

CHAP. X.

The Druids *reckoning of time. An Age consists of thirty Years. What Authors treat of the* Druids. *Their Doctrines and Customs savour of* Pythagoras *and the* Cabalists. *They were the eldest Philosophers and Lawyers among the* Gentiles. *Some odd Images of theirs in Stone, in an Abby near* Voitland, *described.*

8. "THe *Druids* begun their Months and Years from the sixth Moon "(so says *Pliny*) and that which they called an Age after the "thirtieth year. In the *Attick* account an Age or Generation, and that of a man in his prime and strength, was comprized within the same terms, according to the opinion of *Heraclitus*, and as it is in *Herodotus*; nor had *Nestor's* triple Age a larger compass, if one may believe *Eustathius*.

Plin. nat. hist. l. 16. c. 44.

Plut. de orac. def. Herod. Euterp. Eustath. ad 1. Iliad.

Tiberius drove these *Druids* out of the two *Gallia's*, *Claudius* banisht them out of *Rome*, and the worship of the true God *Christ*, sped them out of *Britany*.

Senec. in Apocol. Plin. l. 30. c. 1.

What further appertains to the sacred Rites and Doctrine of the *Druids*, (not to speak further of *Cæsar*) *Strabo*, *Pliny*, *Diodorus Siculus*, (by the way his Latin Version we do not owe to *Poggius* of *Florence*, as the Books published would make us believe, but to *John Frea* formerly Fellow of *Baliol* Colledge in *Oxford*, if we may believe an Original Copy in the Library of the said Colledge.) Beside these, *Lucan*, *Pomponius Mela*, *Ammianus Marcellinus*, and very lately *Otho Heurnius*, in his *Antiquities of Barbarous Philosophy*, and others have, with sufficient plainness, delivered, yet so, that every thing they say savours of *Pythagoras* (and yet I am ne're a whit the more perswaded that *Pythagoras* ever taught in *Merton-hall* at *Oxford*, or *Anaxagoras* at *Cambridge*, as *Cantilep* and *Lidgate* have it) and of the *Cabalists* too (for *John Reuchlin* hath compared the discipline of *Pythagoras*, and that of the *Cabalists*, as not much unlike.) Whether the *Druids*, says *Lipsius*, had their *Metempsychosis* or transmigration of Souls, from *Pythagoras*, or he from them, I cannot tell.

Br. Tuin. Apolog antiq. Academ. Oxon. l. 3. §. 329.

Reuch l. 2. de arte Cabalist. Lipf. Stoic. physiolog l. 3. dissert. 12. & vide Forcatulum l. 1. de Gall. Imperio.

The very same thing is alike to be said, concerning their Laws, and the Common-wealths which they both of them managed: They have both the same features as like as may be, as it was with *Cneius Pompey*, and *Caius Vibius*. For the *Samian* Philosopher did not only teach those secrets of Philosophy which are reserved, and kept up close in the inner shrine; but also returning from *Egypt* he went to *Croton*, a City of *Italy*, and there gave Laws to the *Italians*, (my Author is *Laertius*) and with near upon three hundred Scholars, governed at the rate, as it were of an Aristocracy. The Laws of *Zaleucus* and *Charondas* are commended and had in request. "These men, says *Seneca*, did not in a Hall of Justice, "nor in an Inns of Court, but in that secret and holy retirement of *Py-*

Laert. l. 8. & Plut. orat 2. de Esu carnium.

Senec. Epist. 91.

"*thagoras*

"*thagoras*, learn those Institutes of Law, which they might propose to "*Sicily* and to *Greece*, all over *Italy*, both at that time flourishing. That holy and silent recess was perchance borrowed of the *Druids*: Forasmuch as what *Clement* of *Alexandria* witnesses, heretofore the more secret and mysterious Arts were derived from the *Barbarians* to the *Greeks*.

Clem. l. 1. Strom.

However the business be, it appears hence plainly, that the *Druids* were of the oldest standing among the Philosophers of the Gentiles, and the most ancient among their Guardians of Laws. For grant they were of *Pythagoras* his School, yet even at that rate they are brought back at least to the fiftieth or sixtieth *Olympiad*, or if thou wilt, to the Tyranny of the *Tarquins*, which is about two and twenty hundred years ago. 'Tis true, *Pliny*, *Cicero*, *Austin*, *Eusebius* disagree in this point; nor will I catch that mistake by the handle, which draws him, meaning *Pythagoras*, back to *Numa's time*.

To what hath been said, I shall not grudge to subjoyn a Surplage out of *Conradus Celtes*. He is speaking of some ancient Images of stone, which he had seen in a certain Abby at the foot of a Hill that bears Pines, commonly called *Vichtelberg*, in the Neighbourhood of *Voitland*, which he conceives did by way of Statue represent the *Druids*. "They were "six in number, says he, at the door of the Temple niched into the Wall, "of seven foot apiece in height, bare-footed, having their Heads un-"covered, with a Greekish Cloak on, and that Hooded, and a Satchel "or scrip by their side, their Beard hanging down to their very Privities, "and forked or parted in two about their Nostrils; in their Hands a Book "and a Staff like that of *Diogenes*, with a severe Forehead and a melan-"choly Brow, stooping down with their Head, and fastening their Eyes "on the ground. Which description, how it agrees with those things which are recounted by *Cæsar* and *Strabo*, concerning the Golden adornments, the dyed and coloured Vestures, the Bracelets, the shaved Cheeks and Chin of the *Britans*, and other things of the like kind, let them who are concerned look to that.

Apud P. Merulam in Cosmogr. part 2. lib. 3.

CHAP. XI.

The Britans *and* Gauls *had Laws and Customs much alike, and whence that came. Some things common to them both, set down; in relation to the breeding of their Children, the Marrying of their Wives, the Governing of their Families, burning Women that killed their Husbands, and burning some Servants with the dead Master for company. Together with some Remarks of their publick Government.*

BUt forasmuch as *Britanny* gave the beginnings and improvements to the discipline of these *Druids*, and both *Britans* and *Gauls* had their Government, Customs, Language, Rites sacred and profane, every thing almost the same, or much alike, as Mr. *William Camden* hath some while since most learnedly made out, O Mr. *Camden*, with what respect shall I name thee!

Camden.

In freta dum fluvii current, dum montibus umbræ
Lustrabunt convexa, ac dum Cynosura Britannos,
Semper honos, nomenque tuum, laudesque manebunt.

Which in hearty English makes this acknowledgment of his worth,

As long as Rivers run into the Main,
Whilst Shades on Mountains shall the Welkin hide,
And Britans shall behold the Northern Wain,
Thy Honour, Name, and Praise shall still abide.

And it is evident, that a great part of *Britany* was once under the Government of *Divitiacus* King of the *Soussons*, a People of *France*. Therefore these following Remarks I thought not amiss to set down as *British*, whether they were imparted to this Isle by the ancient *Gauls* (by reason of its nearness) or whether the *Gauls* owed them to the *Britans*.

9. "They do not suffer their Children to come to them in open sight, "(they are *Cæsar's* words) but when they are grown up to that Age, "that they may be able to undergo Military duty and to serve in War.

10. "The men, what mony they receive with their Wives upon ac-"count of portion, they lay down so much out of their own Estate upon "an appraisement made to make a joint stock with the portion. There is "an account jointly kept of all this mony, and the profits of it are re-"served; the longer liver is to have both shares, with the profits of the "former times.

11. "The men have power of life and death over their Wives, as "well as over their Children. Hereupon *Bodin* charges *Justinian* with a falshood, for affirming that other people had not the same Fatherly power as the *Romans* had. Bodin. de repub. l. 1. c. 4.

12. "When a Master of a Family, who is of higher birth and quality, "dies, his Kindred meet together, that if the manner of his death were "suspicious, they may by torture, as Servants were used, examine the "Wife concerning the business, and if she be found guilty, they torment "her miserably and burn her alive. To this story that most excellent Lawyer, and worthy Lord Chief Justice of the Common Pleas, Sir *Edward Coke*, refers the antiquity of that Law, which we at this day use of devoting to the flames those wicked Baggages, who stain their hands with the nefarious murder of their Husbands. In præfat. ad l. 6. Relat.

13. "Those Servants and Dependents, who were known to have been "beloved by their Master in his life time, were, when the Funeral Rites "were prepared, burnt with him for company.

14. "It was ordered, that if any one by flying report or common fame "had heard any thing from the borders, that might concern the Com-"mon-wealth, he was to make it known to some Magistrate, and not "impart it to any body else.

15. "The Magistrates conceal those things they think fit, and what "they judge may be of use to the Publick, they discover to the populace.

16. "No body has leave to speak of the Common-wealth, or of pub-"lick affairs, but in Council or Parliament.

17. "They came armed into the Council or to Parliament. So the custom of the Nation was, saith *Livy*; and *Tacitus*, the like of the *Germans*. Liv. lib. 21.

CHAP. XII.

Women admitted to publick debates. A large commendation of the Sex, together with a vindication of their fitness to govern; against the Salick *Law, made out by several examples of most Nations.*

Plut. de virtut. mulier.

18. "IT was grown a custom amongst them (we meet with this in "*Plutarch*) that they treated of Peace and War with their wo-"men in company, and if any questions arose betwixt them and their "Allies, they left it to them to determine. The same custom the *Cecropians*, (that is, the people of *Athens*) once had, as *Austin* relates it out of *Varro*, before the women by majority of Vote carried it for *Minerva* against *Neptune*.

Aug. de Civ. Dei l. 18. c. 9.

Away with you, *Simonides*, and whosoever you are, scoundrels, that unworthily abuse the finer and brighter Sex. Good *Angerona*, thou Goddess of Silence, wash, nay stop *Eubulus* his foul mouth, who denies there were ever any good women more than two in the world, to wit, chast *Penelope*, and *Alcestis*, who died in her Husbands stead.

Athenæus.

How large an honour was paid to the counsels, the prudence, the virtue of the *Gallish* Ladies in their chiefest affairs, and not without their desert? How much honour even at this day, is yearly paid at *Orleance*, on the eighth of *May*, to the Statue of *Joan Darcy* of *Lorain*, that stands on the bank of the River *Loir*; who obliged her dear Country with a Victory wonderfully got, when all had been lost.

Paul. Æmil. hist. Franc. l. 10.

To pass by other arguments, Antiquity holds this Sex to be equally divine as the Male. In Heaven, Sea, Earth, together with *Jupiter*, *Neptune*, *Pluto*, who were the Gods that shared the world, there governed *Juno*, *Salacia*, *Proserpina*, their Goddesses. Marry! in *Varro*'s three-fold Divinity, there are more she-Gods than he-Gods.

Ovid. de arte amandi l. 3.

Ipsa quoque & cultu est, & nomine fœmina Virtus.

Virtue her self, howe're it came,
Is Female both in Dress and Name.

But I do not go to act over *Caius Agrippa*'s part, by declaiming upon Female excellency. The thing it self speaks more than I can, and the subject is its own best Orator.

Tac. in vit. Agric. & Annal. l. 14.

I must add one thing which *Cornelius Tacitus* tells us of the *Britans*, "that they were wont to war under the conduct of women, and to make "no difference of Sex in places of Command and Government. Which places yet there are some who stiffly deny, that Women by right should have the charge of; as being, what *Euripides* says of them,

Eurip. in Medea.

Καὶ τοῖς δ' ἐς ἀλκὴν καὶ δόρυ πολεμίοις.

that is,

But ill for the stout feats of War,
Who scarce to look on Iron dare.

But

But those Authors especially, who, propped up with the *Salick Law* (as they call it) write, that Males only are by right of inheritance capable of the Government of the *French*, they do hold and maintain this argument tooth and nail, with all the unkindness and spite as may be to the *English* Law, which admits of Women to the Throne. They urge, that not only the Laws of *Pharamond*, but Nature her self is on their side. "The Government of women ('tis *Bodin of Anjou* sayes it) "is contrary to the Laws of Nature, which hath bestowed upon men "discretion, strength of body, courage and greatness of Spirit, with the "power of Rule, and hath taken these things from women. Bodin. de repub. l. 6. c. 5.

But, sweet Mr. *Bodin*, are not discretion, strength, courage and the arts of Government, more to be desired and required in those who have the Tuition of Kings in their Minority, than in the Kings themselves till they are come to age? Truly I am of that mind. For why then, pray tell me, did not that reason of yours wring the Guardianship of St. *Louis* out of the hands of the Queen-Mother *Blanch*? why not out of *Isabella*'s hands under *Charles* the Sixth? why not of *Catharine de Medicis*, whilst the two Brothers *Francis* and *Charles* her Pupils were incircled with the Crown? why not out of the hands of *Mary*, *Louis* the Thirteenth being at this very time King?

Were the *Jews*, that I may go back to stories more ancient, blind, that they could not see the defects of Womens nature, in the Government of *Debora*, who triumphed over *Sisera*, and is sufficiently commended in Holy Writ? Were the *Italians* blind under the Government of the most prudent *Amalasincta*? the *Halicarnassians*, under that of the most gallant *Artemisia*? the *Egyptians*, among whom heretofore their Women managed Law-Courts and business abroad, and the men lookt to home and minded huswifery? and the *Æthiopians* under their *Nicaula*, whom being very desirous of wisdom, King *Solomon*, the wisest man that has been ever since the world was, honourably entertain'd? were the *Assyrians*, under the Government of their magnificent *Semiramis*? the *Massagetes*, under that of the revengeful Dame *Thomyris*? the *Palmyrenes*, under that of the most chaste *Zenobia*? and that I may make an end once, under that of other excellent women, all Nations whatever, none excepted but the *Franks*? who, as *Goropius* will have it, came to throw off and slight female Government upon this account, that in *Vespasian*'s time they had seen the affairs of their neighbours the *Bructeri* in *East Friseland*, whilst that scornful Hag *Velleda* ruled the roast, came to no good issue. Pomp. Mela, l. 1. c. 9. Gorop. in Francicis.

I do very well know, that our perjured Barons, when they resolved to exclude Queen *Maud* from the *English* Throne, made this shameful pretence, "That it would be a shame, for so many Nobles to be subject "to a woman. And yet you shall not read, that the *Iceni* (our *Essex*men, *&c.*) got any shame by that *Boadicia*, whom *Gildas* terms a Lioness, or that the *Brigantes* (i. e. *York-shire*-men, *&c.*) got any by *Chartismandua*. You will read, that they got glory and renown by them both.

Reader, thou canst not here chuse but think of our late Soveraign of Ever Blessed Memory, the Darling of *Britan*, Q. *ELIZABETH*, nor canst thou, whosoever thou art, but acknowledge, "That there "was not wanting to a Woman (what *Malmesbury* writes of *Sexburga* "the Queen Dowager of *Cenwalch* King of the *West Saxons*) a great Spi-"rit to discharge the duties of the Kingdom; she levied new Armies, Malmesb. gest. reg. l. 1. c. 2.

"kept the old ones to duty; she governed her Subjects with Clemency, "kept her Enemies quiet with threats; and in a word, did every thing "at that rate, that there was no other difference betwixt her and any "King in management, but her Sex. Of whose (I mean *Elizabeths*) superlative and truly Royal Vertues a rare Poet, and otherwise a very Learned man, hath sung excellently well,

Connub. Tam. & Iis.

Si quasdam tacuisse velim, quamcunque tacebo
Major erit: primos actus veteresque labores
Prosequar? ad sese revocant præsentia mentem.
Justitiam dicam? magis at Clementia splendet.
Victrices referam vires? plus vicit inermis.

'Tis pity these are not well rendred into *English*. However take them as they are in blank Verse.

Should I in silence some her Vertues pass,
Which e're I so pass o'er, will greater be:
Shall I her first deeds and old facts pursue?
Present affairs to them call back my mind.
Shall I her Justice in due numbers sing?
But then her Clemency far brighter shines.
Or shall I her victorious Arms relate?
In peace unarm'd she hath got more to th' State.

What did the *Germans* our Ancestors? they thought there was in that Sex something of Sanctity and foresight, nor did they slight their counsels, nor neglect the answers they gave, when questions were put to them about matters of business; and as Superstition increased, held most of them for Goddesses.

Let him then, whatever dirty fellow it was, be condemned to the Crows (and be hang'd to him) who is not ashamed out of ancient Scrolls, to publish to the world, that they (Women) agree with Soldiers (Bully-Rocks and Hectors) mainly in this, "That they are continually "very much taken up with looking after their body, and are given to "lust, that Souldiers themselves are not, nor endeavour to be more "quick and sudden in their Cheats and Over-reachings, that Soldiers "deceive people at some distances of time, but women lye alwayes at "catch, chouse and pillage their Gallants all the wayes they can; "bring them into Consumptions with unreasonable sittings up; And other such like mad rude expressions he useth, not unfitting for a Professor in *Bedlam* Colledge.

Plato de rep. lib. 5. Arist. Polit. l. 1. c. ult. Trismegist.

Plato allowed Women to govern, nor did *Aristotle*, (whatever the Interpreters of his *Politicks* foolishly say) take from them that priviledge. Vertue shuts no door against any body, any Sex, but freely admits all. And *Hermes Trismegistus* that Thrice great man in his *Pæmander* according to his knowledge of Heavenly concerns (and that sure was great in comparison of what the Owl-ey'd Philosophers had) he ascribes the mystical name of *Male-Female* to the great Understanding, to wit, God, the Governour of the Universe.

They (the good women I have been speaking of) from their Cradle (at this rate men commonly talk of them) do too much love to have the Reins of Government, and to be uppermost. Well! be it so, that they

they do love to govern? and who is it doth not love them? Now a sin and shame be it for Lovers to grudge to their beloved, that which is most desired and wished by them: nor could I forbear out of conscience with my suffrage, to assist as far as I could, that Sex, which is so great and comfortable an importance to mankind, so sweet a refreshment amidst our sharpest toils, and the vicissitudes of life; and in a word, is the dearest gift that Dame Nature could bestow upon Man.

But let us now return to *Cæsar*'s *Gauls* again.

CHAP. XIII.

Their putting themselves under protection by going into great mens service. Their Coins of money, and their weighing of it. Some sorts of flesh not lawful to be eaten by them.

19. "VEry many of them, when they are oppreſt with Debt or "with great Taxes, or with the injurious oppreſſion of great "men, put themſelves out to ſervice to the Nobles. Over ſuch they "have the ſame Right or Authority, as Maſters have over their Ser-"vants or Slaves.

Theſe things following are expreſly related alſo of the *Britans* themſelves.

20. "They uſe Braſs Coin or Rings (ſome read it, Plates) of Iron "proportion'd to a certain weight, inſtead of money. But, (ſaith *Soli-*"*nus*, a more modern Hiſtorian) they diſlike and diſallow of Markets or "Fairs or Money; they give and take Commodities by way of "Barter. Solin. Polyhiſt. cap. 35.

Camden is of opinion, that the cuſtom of Coining Money, came in along with the *Romans* among the *Cattieuchlani*, that is, the people of *Buckinghamſhire*, *Bedfordſhire* and *Hartfordſhire*. He takes notice out of *William* the Conqueror's Book of Rates or *Dooms-Day* Book (which is ſeaſonable to mention upon this Head of Coins) that as amongſt the old *Romans*, ſo amongſt our Anceſtors, money was weighed (as *Gervaſe* of *Tilbury* alſo tells us) and ſo told out and paid down. Now they paid Cuſtoms to the *Romans*; and for this purpoſe they had Coins ſtamped and marked with various ſhapes of living Creatures and Vegetables, which ever and anon are digged up out of the ground. And we read in a very ancient Chronicle of the Monaſtery of *Abendon*, which had two Kings *Ciſſa* and *Ina* for its founders, that at the laying the firſt foundations, there were found very old Coins engraven with the Pictures of Devils and Satyrs. One may very well ſuppoſe them to be *Britiſh* Coins. V. Plut. quæſt. centuriat. Rom. 41. Br. Tuin. apolog. Oxon. l. 2. §. 77.

21. "They do not think it lawful to taſte of the fleſh of Hare, or "Hen, or Gooſe, and yet they keep theſe Creatures for pleaſure and "divertiſement ſake. Why they forbore only Hare, and Hen, and Gooſe, I am not able to give the reaſon. I perceive ſomething of *Pythagoras*, and ſomething of the *Jewiſh* Diſcipline mixt. For that Philoſopher of *Samos* abſtained from the eating of Fleſh, not in general from all, but with a certain choice from that of ſome particular Creatures. V. Plut. Sympoſ. l. 4. c. 5. Laert. l. 8. Plut. ſymp. l. 8. c. 8.

CHAP.

CHAP. XIV.

Community of Wives among the Britans, *used formerly by other Nations also.* Chalcondylas *his mistake from our Civil Custom of Saluting. A rebuke of the foolish humour of Jealousie.*

22. "THey have ten or twelve of them Wives in common amongst "them, and especially Brothers with Brothers, and Fathers "with their Sons; but what children are born of such Mothers, they are "fathered upon them by whom they were first lain with, when they were Maids. O villany and strange confusion of the rights of Nature!

Georgic. 3. *Dii meliora piis, erroremque hostibus istum!*

which in Christian English speaks thus.

Good God! For th' pious better things devise,
Such Ill as this I wish not t' Enemies.

However let not this *Platonick* community of Wives be more reproach to the *Britans*, than that promiscuous Copulation which was used by the *Thuscans*, and before *Cecrops* his time (who for appointing Marriage, that is, joyning one Man and one Woman together, was termed Δίφυης, *i.e.* as one may say *Two-shaped*) by the *Athenians*, (as *Theopompus*, *Suidas* and *Athenæus* report it) was to them. Besides, *Eusebius* in his *Evangelical Preparation* writes, that our people for the most part were contented with one single Marriage.

Athen. dipnos. l. 12. & 13. Suid. in Κέκροψ. Euseb. præpar. Evang. l. 6.

Did not, may one think, *Chalcondylas* mistake *Cæsar*'s meaning, who a hundred years ago and upwards setting himself to write History at *Athens*, and peradventure over-carelesly drawing ancient Customs down to the last Age, ventured to affirm of the *Britans* his Contemporaries, "That when any one upon invitation enters the house of a "friend, the Custom is, that he first lye with his friends Wife, and af-"ter that he is kindly entertained? Or did that officious kiss, the Earnest of welcome, which is so freely admitted by our Women from strangers and guests, which some take particular notice of as the custom of our Countrey, put a trick upon *Chalcondylas*, and bring him into that mistake?

Apud Abrah. Ortel. in Theat. Mundi.

Munster. Boëmus, &c.

Theocr. Eidyll. 3. Ἔστι γὰρ ἐν κενεοῖσι φιλάμασιν ἀλλὰ τέρψις.

sayes *Theocritus* of old, that is,

In empty kisses there is swart delight.

And,

And,

Qui vult cubare, pangit saltem suavium, Plaut. Curcul.

sayes the Servant in *Plautus*,

He that would a woman win,
With a kiss he doth begin.

And that other fellow,
Quæro deinde illecebram stupri, principio eam suavium posco. And Id. Amphitr.
Et jam illud non placet principium de osculo, sayes jealous *Amphitruo* to Id. Casinâ.
his wife *Alcumena*. And *Agesilaus* mistrusting his wanton Genius, refu- Plut. de aud.
sed the buss or salute of a handsome beautiful youth. For as he sayes, Poet.

———*Parva leves capiunt animos,* Ovid. de art. am. l. 1.

that is,

Small matters kindle the desire,
And a loose Spirit's soon on fire.

This our *Grecian* knew well enough, and perchance thought of that unlucky hint,

———*Si non & cætera sumpsit,*
Hæc quoque, quæ sumpsit, perdere dignus erat.

Moreover, that great Philosopher of Lawyers *Baldus*, hath set it down Bald. l. 5. consil. 78.
for a rule, that the Fathers consent and betrothal is ratified and made Alber. Gentil.
good by the Daughters admitting the Wooer to kiss her. Which point de nupt. l. 2.
of Law it would be very ridiculous to imagine should concern us, with c. 13.
whom both Maids and married Women do easily afford, and civilly too, them that salute them a kiss, not such as *Catullus* speaks of Billing like Doves, hard Busses or wanton Smacks, but slight modest chaste ones, and such as Sisters give to Brothers. These civilities, when omitted, are alwayes signs of Clownishness; when afforded, seldom are accounted signs of Whorishness. Nor do the Husbands in this case (unless it be perhaps some Horn-mad-Cuckold) with a wrinkled Forehead shake their Bull-feathers, or so much as mistrust any thing as upon jealousie of this custom.

It may be *Chalcondylas* being a little pur-blind, saw these passages as it were through a grated Lattice, and made ill use of his mistake: I mean, whilst he compared our *Britans*, who upon a Matrimonial confidence trust their Mates honesty, with the jealous *Italians*, *Venetians*, *Spaniards*, and even his own Countrey-men. Which people, it is a wonder to me, they should so warily, with so much diligence and mistrust set pinfolds, cunning Spies and close attendance, Locks and Keys, and Bars and Bolts upon their *Madonna*'s Chastity (most commonly in my conscience all to no purpose) when that which he has said is as good as Oracle, though a wanton one.

Quod

Ovid. amor. l. 2. eleg. 19. Id. l. 3. eleg. 4. Id. de remed. amor. l. 2.

Quod licet, ingratum est: quod non licet, acriùs urit.
Ferreus est, siquis, quod sinit alter, amat.
Siqua, metu dempto, casta est, ea denique casta est:
Quæ, quia non liceat, non facit, illa facit.
Qui timet, ut sua sit, nequis sibi subtrahat illam;
Ille Machaoniâ vix ope sanus erit.

In English thus,

What's frée, 's unpleasant; what's not, moves desire.
He's thick skull'd, who doth things allow'd admire.
Who, fear aside, is chaste, she's chaste indéed;
Who, cause she can't, forbears, commits the deed.
Who's Wife mistrusts, and plays the jealous Whelp,
Is mad beyond Physicians art and help.

Who does not know, that Natures byas runs to things forbidden? and he who attempts unlawful things, does more often lose those which are lawful. Marry! that free usage of the hot Baths of *Baden* in *Germany*, Men and Women together, is much safer than being jealous.

Virg. in Ceiri.

——Quis non bonus omnia malit
Credere, quàm tanto sceleri damnare puellam?

That is,

What good man would not take all in best sense,
Rather by living undisturb'd and frée;
Than by distrustful foolish Jealousie
His Lady force to quit her Innocence?

But we have taken that pains upon a thing by the By, as if it were our proper business.

CHAP. XV.

An account of the British *State under the* Romans. Claudius *wins a Battel, and returns to* Rome *in Triumph, and leaves* A. Plautius *to order affairs. A Colony is sent to* Maldon *in* Essex, *and to several other places. The nature of these Colonies out of* Lipsius. Julius Agricola's *Government here in* Vespasian's *time.*

Malmesb. de gest. reg. l. 1. c. 1.

JUlius *Cæsar* gave a sight of *Britanny* to posterity, rather than made a full discovery or a delivery of it. However *Malmsbury* sayes, "that he "compelled them to swear obedience to the *Latin* Laws, certainly he did scarce so much as abridge the inhabitants from the free use of their own Laws; for the very Tributes that were imposed upon them, they in a short time shook off, by revolting from the *Roman* yoke. The same liberty they used and enjoyed to all intents and purposes during *Augustus*, *Tiberius* and *Caligula*'s Reigns.

Aulus

Aulus Plautius as General by order of *Claudius Cæsar*, brought an Army into *Britany*. Ἦσαν δ' ἄλλοις (so saith *Dio*) βασιλεῦσι πρεσβυτεροῖς that is, *The inhabitants at that time were subject to divers Kings of their own.* He overcame in battel Prince *Cradock* and *Togodunus* the two Sons of King *Cunobellinus*; afterwards *Claudius* himself came over into the Island, fought a set battel; and having obtained the Victory, he took *Maldon* in *Essex*, the Royal City of *Cunobellinus*, disarmed the inhabitants, left the government of them, and the subduing of the rest of the people to *Plautius*, and went back himself to *Rome*, where he was honoured with a most splendid and stately Triumph. For this was he, of whom *Seneca* the Tragœdian speaks: Dio hist. Rom. l. 60.

Cuique Britanni terga dedêre,
Ducibus nostris ante ignoti,
Jurisque sui.——

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which may be thus Englished,

To whom bold Britans turn'd their back,
T' our Captains formerly unknown,
And govern'd by Laws of their own.

The Island being reduced great part under the *Romans* power, and into a Lieutenancy, a Colony is brought down to *Maldon* (in *Essex*) as *Tacitus* and *Dio* has it, with a strong party of Veterans, and is planted up and down in the Countrey they had taken, "as a supply against those "that would rebel, and to train up their fellows or Allies to the duties "of the Laws. An old Stone speaks thus of that Colony, Tac. annal. l. 12. Dio hist. l. 60.

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Camden. & Lips. ad l. 12. Tac. num. 75.

Besides, there was a Temple built and dedicated to *Claudius Ara* (or as *Lipsius* reads it *Arra*) *Æternæ dominationis*; that is, the Altar or Earnest of an eternal Government. But you will say, all this makes little to our purpose: yes, very much; as that which brings from abroad the *Roman* Orders, Laws, Fashions, and every thing into *Britany*. Near St. *Albans*, a Town in *Hartfordshire*, there was sure enough the seat of *Cassibellinus* called *Verulams*, and the Burghers, as we learn from *Agellius*, were Citizens of *Rome* infranchized, out of their Corporations, using their own Laws and Customs, only partaking the same honorary priviledge with the people of *Rome*: but we have the Colony of *Maldon* in *Essex*, which upon another nearer account had all the Rights and Orders of the people of *Rome* derived to it from the freedom of that City, and was not at its own disposal, or to use its own Laws. And Agell. l. 16. c. 13.

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Besi
Lips
of a
our
Rom
St.
Cas
lius,
usin
priv

l. l. 16.

STAINED PAGES

Maldon in *Essex*, which upon another [illegible] and Orders of the people of *Rome* derived to it from the freedom of that City, and was not at its own disposal, or to use its own Laws. And

the like was practised in this Island in more than one place. The Reverse of *Severus* the Emperours Coyn shews it.

Camden. COL. EBORACUM. LEG. VI. VICTRIX.

and the Coyn of *Septimius Geta* on either side.

COL. DIVANA. LEG. XX. VICTRIX.

This old *Divana* (which is the very same with *Deunana* in *Ptolomy*) if you make it *English*, is *Chester* the chief City of the *Cornavians*, that is, the people of *Cheshire*, *Staffordshire*, *Shropshire*, *&c.* Again, there is a piece of an old Stone in the Walls of *Bath* in *Somersetshire* near the North Gate has this Inscription upon it,

DEC. COLONIÆ. GLEV. VIXIT.
ANN. LXXXVI.

Colonia castri, *whence the River called* Coln. Senec. ad Alb. c. 7.

Glevum was that then which *Glocester* is now. It may be *Colchester* had the same right of priviledge, unless you had rather derive its name from the River *Coln* that runs aside it. In a word (sayes *Seneca* to *Albina*) "How many Colonies has this people of ours sent into all Pro-"vinces? Where ever the *Roman* conquers, he dwells. See what abundance there was of them in *British* Province; whose form of Government, and other Laws, that they were different from that of the *Britans*, we may plainly perceive from that very form of their constitution after their detachment; which I shall present you with out of that famous Antiquary, and every way most Learned and Celebrious person *Justus Lipsius*.

Lipf. de mag. Rom. l. 1. c. 5.

Their manner and method was (sayes he) "That the Lands should "be divided to man by man, and that by three grave discreet persons, "whom they used to chuse for this purpose, who did set out their par-"ticular Seats and Grounds, and the Town it self (if there were one to "be built) and prescribed them Rules and Rights, and the form as it "were of a new Common-wealth: Yet in that manner, that all things "might bear a resemblance of *Rome* and the Mother City; and that in "the very places themselves the Courts of Law, the Capitols, the "Temples, the State-houses or Town-halls might be according to that "model, and that there might be in the Government or Magistracy "two persons as Bailiffs in most places, like the two *Consuls* at *Rome*; "in like manner Surveyors and Scavengers, Aldermen of the Wards and "Headboroughs, instead of a Senate or Common Council as we may call "it.) This is *Lipsius* his account; so that *Beatus Gildas* is not much out of the way, when he sayes, it was reckoned not *Britannia*, but *Romania*. And an ancient Copy of Verses, which *Joseph Scaliger* has rescued out of its rust and mouldiness, has it:

Gild. in Epist. de excid. Brit.

Mars pater, & nostra gentis tutela Quirine,
Et magno positus Cæsar uterque polo;
Cernitis ignotos Latiâ sub Lege Britannos, &c.

that

that is, in English,

Sire Mars, and Guardian of our State
Quirinus hight after thy fate,
And Cæsars both plac'd near the Pole
With your bright Stars ye do behold,
And th' unknown Britans aw,
T' observe the Roman Law.

The stately Seraglio or Building for the Emperours Women at *Venta Belgarum* (a City at this day called *Winchester*) and other things of that kind I let pass. Notitia Provinc.

In the time of the Emperours *Vespasian*, *Titus* and *Domitian*, *Julius Agricola*, *Tacitus* his Wives Father, was Lord Deputy Lieutenant here. He encouraged the Barbarous people to Civil fashions, insomuch that they took the *Roman* habit for an honour, and almost every body wore a Gown; and as *Juvenal* has it in his Satyr, Tacit. vit. Agric.

Gallia Causidicos docuit facunda Britannos. Juvenal. Sat. 6.

The British Lawyers learnt of yore,
From the well-spoken French their lore:
T' imply, hereafter we should see
Our Laws themselves in French would be.

CHAP. XVI.

In Commodus *his time King* Lucy *embraces the Christian Religion, and desires* Eleutherius *then Pope, to send him the* Roman *Laws. In stead of Heathen Priests, he makes three Arch-Bishops and twenty eight Bishops. He endows the Churches, and makes them Sanctuaries. The manner of Government in* Constantine's *time, where ends the* Roman *account.*

IN *Commodus* the Emperours time the Light of the Gospel shone afresh upon the *Britans*. *Lucius* the first King of the Christians (for the *Romans*, as in other places, so in *Britany*, made use of even Kings for their instruments of slavery) by the procurement of *Fugatius* and *Damianus* did happily receive from Pope *Eleutherius* the Seal of Regeneration (that is, Baptism) and the Sacred Laws of eternal salvation. He had a mind also to have the Civil Laws thence, and desired them too. *Ovid* long since had so prophesied of *Rome*: Platin. in vit. Eleutherii.

Juráque ab hâc terrâ cætera terra petet. Ovid. Fast. l. 1.

that is,

And from this Countrey every other Land
Their Laws shall fetch, and be at her command.

Jo. Fox Hist. Eccles. l. 1.

Now *Eleutherius* wrote him this answer: "You have desired of us, "that the *Roman* and *Cæsarean* Laws may be sent over to you; that you "may, as you desire, use them in your Kingdom of *Britanny*. The *Ro-* "*man* and *Cæsarean* Laws we may at all times disprove of, but by no "means the Law of God. For you have lately through Divine mercy "taken upon you in the Kingdom of *Britanny* the Law and Faith of "Christ; you have with you in the Kingdom both pages of Holy Writ, "(to wit, the Old and New Testament). Out of them, in the name "and by the favour of God, with the advice of your Kingdom, take "your Law, and by it through Gods permission, you may govern your "Kingdom of *Britanny*. Now you for your part are Gods Vicegerent "in your Kingdom.

Howsoever by injury of time the memory of this great and Illustrious Prince King *Lucy* hath been imbezill'd and smuggled, this upon the credit of the ancient Writers appears plainly, that the pitiful sopperies of the Pagans, and the Worship of their Idol-Devils did begin to flag, and within a short time would have given place to the Worship of the true God, and that Three *Arch-Flamens* and Twenty Eight *Flamens*, *i. e.* Arch-Priests, being driven out, there were as many Arch-Bishops and Bishops put into their rooms (the Seats of the Arch-Bishops were at *London*, at *York* and at *Caerleon* in *Wales*) "to whom, as also to other "Religious persons, the King granted Possessions and Territories in "abundance, and confirmed his Grants by Charters and Patents. But "he ordered the Churches (as he of *Monmouth* and *Florilegus* tell us) "to be so free, that whatsoever Malefactor should fly thither for refuge, "there he might abide secure, and no body hurt him.

Zosim. l. 2.

In the time of *Constantine* the Emperour (whose Pedigree most people do refer to the *British* and Royal Blood) the Lord President of *France* was Governour of *Britanny*. He together with the rest, those of *Illyricum* or *Slavonia*, of the *East* and of *Italy*, were appointed by the Emperour. In his time the Lord Deputy of *Britanny*, (whose Blazonry was a Book shut with a green Cover) was honoured with the Title of *Spectabilis*. There were also under him two Magistrates of Consular Dignity, and three Chief Justices (according to the division of the Province into five parts) who heard and determined Civil and Criminal Causes.

Notit. Provinc. utr. Imper. l. 1. comm. c. 5. & l. 2. comm. Pancir. c. 69.

And here I set up my last Pillar concerning the *Britans* and the *Roman* Laws in *Britanny*, so far forth as those Writers which I have, do supply me with matter.

CHAP.

CHAP. XVII.

The Saxons *are sent for in by* Vortigern *against the* Scots *and* Picts, *who usurping the Government, set up the Heptarchy. The* Angles, Jutes, Frisons, *all called* Saxons. *An account of them and their Laws, taken out of* Adam *of* Bremen.

AFterwards the *Scots* and *Picts* making incursions on the North, and daily havock and waste of the Lands of the Provincials, (that is, those who were under the *Roman* Government) they send to desire of the *Romans* some Auxiliary Forces. In the mean time, *Rome* by a like misfortune, was threatned with imminent danger, by the fury of the *Goths*: all *Italy* was in a fright, in an uproar. For the maintaining of whose liberty, the Empire being then more than sinking, was with all its united strength engaged and ready prepared. So this way the *Britans* met with a disappointment. Wherefore *Vortigern*, who was Governour in Chief, sent for supplies from the neighbouring *Germans*, and invited them in. But according to the Proverb, *Carpathius leporem*; He caught a *Tartar*: for he had better have let them alone where they were. Upon this account, the *Saxons*, the *Angles*, the *Jutes*, the *Friesland*ers arrive here in their Gally-Foists in the time of *Theodosius* the younger. At length being taken with the sweetness of the soil (a great number of their Countrey-men flocking over after them, as there were at that time fatal flittings and shiftings of quarters all the World over) and spurred on with the desire of the chief command and rule, having struck up a League with the *Picts*, they raise a sad and lamentable War against their new entertainers, in whose service they had lately received pay: and to make short, in the end having turned the *Britans* out of their Ancestors Seats they advanced themselves into an *Heptarchy* of *England*, so called from them.

Albeit they pass by various names, yet in very deed they were all of them none other but *Saxons*. A name at that time of a large extent in *Germany*; which was not, as later Geographers make it, bounded with the Rivers of the *Elb*, of the *Rhine* and the *Oder*, and with the Confines of *Hessen* and *Duringen*, and with the *Ocean*; but reached as far as into the *Cimbrian Chersonesus* now called *Jutland*. It is most likely, that those of them that dwelt by the Sea-side, came over by Ship into *Britanny*. To wit, at first *Horsus* and *Hengistus* came over out of *Batavia*, or the Low Countreys, with a great company of *Saxons* along with them; after that out of *Jutland* the *Jutes* (for *Janus Douza* proves, that the *Danes* under that appellation seised our Shores, in the very beginning of the *Saxon* Empire:) out of *Angela*, according to *Camden* about *Flemsburg* a City of *Sleswick*, came the *Angles*; out of *Friseland* (*Procopius* is my Author) the *Frizons*. One may without any wrong call them all *Saxons*; unless *Fabius Quastor Æthelwerd* also did his Nation injury, by calling them so. He flourished Six hundred and fifty years ago, being the Grand-child or Nephew of King *Æthelulph*, and in his own words discourses, "That there was also a people of the *Saxons* all along "the Sea-coast from the River *Rhine* up to the City *Donia*, which is "now commonly called **Denmark**. For it is not proper here to think of

Ja. Douz. annal. Holland. l. 1. & 6.

Procop. bell. Goth. l. 4.

Æthelwerd. lib. 1. fo. 474.

of *Denmark* in the neighbouring Territories of *Utrecht* and *Amsterdam*, by reason of the narrowness of that tract.

Adam Brem. hist. eccles. Brem. & Hamburg. c. 5. ex bibliothecâ Henr. Ranzovii.

Those few Observes then, which *Adam* of *Bremen* hath copied out of *Einhard* concerning the *Saxons*, forasmuch as our Ancient *Saxons* I suppose, are concerned in them, I here set down in this manner and order.

CHAP. XVIII.

The Saxons *division of their people into four ranks. No person to marry out of his own rank. What proportion to be observed in Marriages according to Policy.* Like to like *the old Rule. Now Matrimony is made a matter of money.*

23. THe whole Nation consists of four different degrees or ranks of men; to wit, "of Nobles, of Free-men born, of Free-men "made so, and of Servants or Slaves. And *Nithard* speaking of his own time, has divided them into **Ethelings**, that is, Nobles, **Frilings**, that is, Free-men, and **Lazzos**, that is, Servants or Slaves.

Nithard. l. 4.

It was enacted by Laws, "That no rank in cases of Matrimony do "pass the bounds of their own quality; but that a Noble-man marry "a Noble-woman, a Free-man take a Free-woman, a Bond-man made "Free be joyned to a Bond-woman of the same condition, and a Man-"servant match with a Maid-servant. And thus in the Laws of *Henry* Duke of *Saxony*, Emperour Elect, concerning *Justs and Tournaments*, "When any Noble-man had taken a Citizen or Countrey-woman to "Wife, he was forbid the exercise of that sport to the third Genera-"tion, as *Sebastian Munster* relates it. The Twelve Tables also forbad the marriage of the *Patricii* or Nobles with the Plebeians or Commons; which was afterwards voided and nulled by a Law which *Canuleius* made, when he was Tribune of the people. For both Politicians and Lawyers are of opinion, That in marriages we should make use of not an *Arithmetical* proportion, which consists of equals; nor of a *Geometrical* one, which is made up of likes; but of a *Musical* one, which proceeds from unlike notes agreeing together in sound. Let a Noble-man that is decayed in his estate, marry a Commoner with a good fortune; if he be rich and wealthy, let him take one without a fortune: and thus let *Love*, which was begot betwixt *Wealth* and *Poverty*, suite this unlikeness of conditions into a sweet harmony; and thus this disagreeing agreement will be fit for procreation and breed. For he had need have a good portion of his own, and be nearer to *Crassus* than *Irus* in his fortunes, who, *by reason of the many inconveniencies and intolerable charges of Women, which bring great Dowries*, doth, with *Megadorus* in *Plautus*, court a Wife without a Portion; according to that which *Martial* sayes to *Priscus*:

Munst. Cosmog. l. 3.

Plut. in sympos.

Plaut. In Aulul. act. 3.

Uxorem

Uxorem quare locupletem ducere nolim
Quæritis? Uxori nubere nolo meæ.
Inferior Matrona suo sit, Prisce, Marito:
Non aliter fiunt fœmina virque pares.

Martial. l. 8. Epig. 12.

Which at a looser rate of Translation take thus,

Should I a Wife with a great fortune wed,
You'l say, I should be swartly brought to bed.
Such fortune will my Liberty undo.
Who brings Estate, will wear the Breches too.
Unhappy match! where e're the potent Bride
Hath the advantage wholly on her side.
Blest pairs! when the Men sway, the Women truckle,
There's good agreement, as 'twixt Thong and Buckle.

And according to that of the *Greek* Poet,

———Τῷ χρ' σαυτὸν ἶλε.

Callimach. epig. 1.

Take, if you'l be rul'd by me,
A Wife of your own degree.

But there is little of our Age fashioned to the model of this sense: Height of Birth, Vertue, Beauty, and whatsoever there was in *Pandora* of Good and Fair, do too too often give place to Wealth; and that I may use the Comedians word, to a Purse crammed with Money. And as the merry *Greek* Poet sayes,

Plaut. in Asinar.

Γένος ἐσθὺν εἰς ἔρωτα,
Σοφίν, τέχνας κατοῦσ,
Μόνον ἄργυρον βλέπουσιν.

Anacreon. carm. εἰς Ἔρωτα.

To be Noble or high-born,
Is no argument for Love:
Good Parts of Breeding lye forlorn;
'Tis Money only they approve.

I come back now to my friend *Adam*.

CHAP.

CHAP. XIX.

The Saxons *way of judging the Event of War with an Enemy. Their manner of approving a propoſal in Council, by clattering their Arms. The Original of* **Hundred-Courts.** *Their dubbing their Youth into Men. The priviledge of young Lads Nobly born. The* **Morganheb** *or Wedding-dowry.*

Et Tacit.

24. "THey take a Priſoner of that Nation, with which they are to "have a War, by what way ſoever they can catch him, and "choſe out one of their own Countrey-men; and putting on each of "them the Arms of their own Countrey, make them two fight toge-"ther, and judge of the Victory, according as the one or the other of "them ſhall overcome. This very thing alſo *Tacitus* himſelf hath, to whom *Einhard* ſends his Reader. For though he treat in general of the *Germans*, yet nevertheleſs without any queſtion, our *Saxons* brought over along with them into this Iſland very many of thoſe things, which are delivered to us by thoſe who have wrote concerning the Cuſtoms of the *Germans*. Among which, take theſe following.

25. "In Councils or publick Aſſemblies, the King or Prince, (*i.e.* a "chief perſon) according as every ones Age is, according to his Nobi-"lity, according to his Reputation in Arms, according to his Eloquence, "has audience given him, where they uſe the authority of perſwading, "rather than the power of commanding. If they diſlike what he ſayes, "they diſapprove it with a Hum and a rude noiſe. If they like the "propoſal, they ſhake and ruſtle their Spears or Partiſans together. "It is the moſt honourable kind of aſſent, to commend the Speaker with "the clattering of their Arms. From hence perhaps aroſe the ancient right of **Wapentakes.**

26. "There are alſo choſen at the ſame Councils or Meetings, chief "perſons (as Juſtices) to adminiſter Law in the ſeveral Villages and "Hamlets. Each of thoſe have a hundred Aſſociates out of the Com-"monalty for their Counſel and Authority. This is plainly the pour-traict of our **hundreds**, which we ſtill have throughout the Counties of *England*.

27. "They do nothing of publick or private affair, but with their "Arms on; but it is not the cuſtom for any one to wear Arms, before "the City or Community approve of him as ſufficient for it. Then "in the Council it ſelf, either ſome one of the Princes or chief perſons, "or the Father of the young man or ſome Kinſman of his in token of "reſpect, give him a Shield and a Partiſan. This with them ſtands "for the Ceremony of the Gown; this the firſt honour of youth arriving "at manhood; before this be done, they ſeem but a part of the Fami-"ly; but after this is over, they are a part of the Common-wealth. The right ancient pattern of dubbing *Knights*, if any where elſe to be found. *Julius Cæſar* ſayes almoſt the very ſame thing of the *Gauls*. "They do not ſuffer their Children, to come in publick to them, till "they be come to Age, that they be able to undergo the Duties of War.

Cæſ. de bell. Gall. l. 6.

28. "A

28. "A remarkable Nobleness of descent, or the high merits of their "Fathers, procure even to young Lads the dignity and esteem of a "Prince. For, as the *Philosopher* sayes, We owe this regard to Vertues, that we respect them, not only whilst present, but also when they are taken away out of our sight; and in the Wise mans account, *The glory of Parents, is the honour of their Children.* Senec. de benefic. l. 4. c. 30. Proverb. 17.

29. "The Wife doth not bring the Husband a Portion, but the "Husband gives the Wife a Dowry. Contrary to what the *Roman* Law saith, That custom is still in use with the *English*, as Morgangheb in other places.

CHAP. XX.

Their severe punishments of Adultery, by maiming some parts of the body. The reason of it given by Bracton. *The like practised by* Danes *and* Normans.

30. "THe Husband if his Wife playes the Whore, cuts off her hair, "strips her naked, and turns her out of doors in presence of her "Kindred, and drives her through the Streets, lashing or beating her "as she goes along. They were formerly in this Northern part of the World, most severe punishers of Adultery, and they had such Laws as were

——*ipsis Marti Venerique timenda*; Juvenal. Sat.

that is, such as would

Put Mars and Venus in a trance
Of fear, amidst their dalliance.

King *Knute* ordered, That a Wife, who took another Passenger on board her than her Husband, and Canut. leg. can. 50.

Πολλάκις ἐκ νυκτῶν ἄλλον ἔχει λεχέα.

Oft times ith' nights away she hies,
And into other harbour flyes. Theognis.

(Well speed thee and thine, fair *Venus*; nor do I willingly bring these ill tidings to thy tender Ducklings.) should have her Nose and ears cut off.

I remember, *Antinous* in *Homer* threatens *Irus* with the chopping off his Nose, Ears and Privities; and *Ulysses* inflicts that very punishment upon his Goat-herd *Melanthius*, for his having been too officious in his pimping attendance upon the Gallants, that haunted the house in his absence. How any one should deserve this penalty, which so disfigures Nature, I do not yet sufficiently understand. Odyss. 18. & 22.

In Allegoriis Homeric.

Heraclides Ponticus informs us, That Law-makers were wont to maim that part especially which committed the misdemeanour. In testimony of this, he mentions *Tytius* his Liver as the Shop and Work-house of Lust; and it were no hard matter to bring in other more pertinent instances; and

Pereant partes, quæ nocuere.

saith some Poet,

The parts that did the hurt,
Let them e'en suffer for't.

However it was not *Melanthius* his Ears, and by no means his Nose that offended; no nor the good Wives neither that commits the fact: as *Martial* the merry Wag tells a certain Husband,

Martial. l. 3. Epig. 43.

Quis tibi persuasit nares abscindere mœcho?
Non hâc peccata est parte, marite, tibi.

that is, with modesty to render it,

What made thee, angry man, to cut
The Nose of him, that went to rut?
'Twas not that part, that did th' offence:
Therefore to punish that, what sense?

But who doth not see, that a Woman hath no other parts of her body so lyable to maiming or cutting off? Both those parts make much for the setting her off; nor are there any others in the whole outward frame of the *Microcosm*, which being cut off, do either more disparage beauty, or withal less afflict the animal vertue, as they call it, by which life is maintain'd. Now for those, who of old time did unluckily, that is, without the favour of those Heathen Gods *Prema* and *Mutinus*, to whose service they were so addicted, offer violence to untainted chastity; "the loss of members did await the lust of such persons, "that there might be member for member (they are the words of *Henry Bracton*, a very ancient Writer of our Law, and they are clear testimonies, that the *English* have practised the Law of like for like) *quia virgo, cùm corrumpitur, membrum amittit, & ideò corruptor puniatur in eo in quo deliquit: oculos igitur amittat propter aspectum decoris, quo virginem concupivit; amittat & testiculos, qui calorem stupri induxerunt.* So long ago,

Bracton. de Coronâ l. 3. c. 28.

An. 18 Ed. 3. fol. 20. à Briton. cap. 25.

Ovid. Metamor. l. 7.

Aut linguam aut oculos aut quæ tibi membra pudorem
Abstulerant, ferro rapiam.

sayes *Progne* to her Sister *Philomele*, speaking of the filthy Villain *Tereus*, who had ravished her,

I'le cut out his eyes or tongue,
Or those parts which did thee the wrong.

and

and *Plautus* in his Play called *Pœnulus*, *Sy. Facio quod manifesto mœchi haud ferme solent. Mi. Ruid id est? Sy. Refero vasa salva.*

I remember I have read that *Jeoffry de Millers* a Nobleman of *Norfolk*, for having inticed the Daughter of *John Briton* to an Assignation, and ingaged her with venereal pledges; being betrayed and trepann'd by the Baggage, underwent this execution; and suffered besides, whatsoever a Fathers fury in such a case would prompt him to do: But withal, that King *Henry* the third was grievously offended at it, dis-inherited *Briton*, banished him, and gave order by Proclamation, that no one should presume, unless it were in his Wives case, to do the like. But these passages are of later date, and since the *Normans* time and from them; unless you will bring hither that which we meet with in *Alured*'s Law concerning a Man and a Maid-servant.

Matth. Paris in H. 3. pag. 1000.

Vid. l. 2. art. 8.

Alured. leg. can. 25.

From whence we slide back again to *Tacitus*.

CHAP. XXI.

The manner of Inheriting among them. Of deadly Feuds. Of **Were-gild** *or Head-mony for Murder. The Nature of Country-Tenures and Knights Fees.*

31. "EVery ones Children are their Heirs and Successors, and there "was no Will to be. Nor was it lawful with us down to our Grandfathers time, to dispose of Country Farms or Estates by *Will*, unless it were in some *Burroughs*, that had a peculiar Right and Priviledge of their own. "If there be no Children, then, says he, the next of kin "shall inherit; Brethren, or Uncles by the Fathers or Mothers side. Those of the ascending Line are excluded from Inheritances, and here appears the preference of the Fathers side: A Law at this very day usual with the English.

32. "To undertake the Enmities rather than the Friendships, whether "of ones Father or Kinsman, is more necessary. Capital enmities, which they call **Deadly Feuds**, are well known to our Northern people. "Nor do they hold on never to be appeased: For even Murder is expia-"ted by a certain number of some head of Cattel, and the whole Family "of the murdered Person receives satisfaction. Murders formerly were bought off with Head-mony called wergild; though one had killed a Nobleman, nay the King himself, as we may see in *Athelstan's* Constitutions: But good manners, I suppose, have prevailed above Laws.

33. "The Lord imposes upon his Tenant a certain quantity of Corn "or Cattel, or Clothes. We see here clearly enough the nature of Country Land-holders, *Fees* or Tenures. As to military or Knights Fees, give me leave to set that down too. *Dionysius Halicarnasseus* gives us a very ancient draught and model of them in the *Trojans* and *Aborigines*: *Florus* in the *Cymbrians*, and *Lampridius* in *Alexander Severus*. Both the Northern people and the *Italians* do owe them to the *Huns* and *Lombards*; but these later according to a more modern form.

Let these things suffice out of *Cornelius Tacitus*, which belong to this Head.

Dion. Halic. lib. 1. Flor. Hist. Rom. l. 3. c. 3. Lamprid. V. Bodin. de rep. l. 2. c. 2. & Franc. Hotom. disp. feud. cap. 2.

CHAP.

CHAP. XXII.

Since the return of Christianity into the Island, King Ethelbert's *Law against Sacriledge. Thieves formerly amerced in Cattel. A blot upon* Theodred *the Good, Bishop of* London, *for hanging Thieves. The Country called* **Engelond** *by Order of King* Egbert, *and why so called. The Laws of King* Ina, Alfred, Ethelred, *&c. are still to be met with in* Saxon. *Those of* Edward *the Confessor, and King* Knute *the* Dane, *were put forth by* Mr. Lambard *in his* Archæonomia.

BEfore that the Christian Doctrine had driven out and banished the *Saxon* Idolatry, all these things I have hitherto been speaking of, were in use. *Ethelbert* (he that was the first King, not only of *Kent*, but of all *England*, except *Northumberland*) having been baptized by *Austin* the Monk, *the Apostle*, as some call him, *of the English*) "amongst "other good things which by Counsel and Grant he did to his Nation, "('tis venerable *Bede* speaks these words) he did also with the advice of "wise men, appoint for his peoples use the orders of their proceedings "at Law, according to the examples of the *Romans*. Which having "been written in the *English* tongue (says he) are hitherto, or to this "time kept and observed by them. Among which orders or decrees he "set down in the first place, after what manner such an one should make "amends, who should convey away by stealth any of those things that "belonged to the Church, or to a Bishop, or to the rest of the Orders. In the Laws of some that came after him, as those of King *Alured* (who cull'd out of *Ethelbert*'s Acts to make up his own) and those of King *Athelstan*, Thieves make satisfaction with mony; accordingly as *Tacitus* says of the *Germans*, "That for lighter offences those that were convicted are "at the rate of their penalties amerced such a number of Horses or other Cattel. For, as *Festus* hath it, before Brass and Silver were coyned, by ancient custom they were fined for their faults so much Cattel: But those who medled with any thing sacred, we read had that hand cut off with which they committed the theft.

Bed. hist. Eccles. l. 2. c. 5.

Fest. verbo Pecul. & verbo Ovibus.

Well! but am I mistaken, or was Sacriledge even in the time of the *Saxon* Government punisht as a Capital crime? There is a passage of *William* of *Malmsbury*, in his Book *de Gestis Pontificum*, that inclines me to think so. Speaking of *Theodred*, the Bishop of *London* when *Athelstan* was King, he says, "That he had among the common people got the "sirname of *Theodred the Good*; for the eminence of his virtues: Only in "one thing he fell short, which was rather a mistake than a crime, "that those Thieves which were taken at St. *Edmunds*, whom the holy "Martyr had upon their vain attempts tied with an invisible knot (he means St. *Edmundsbury* in *Suffolk*; which Church these Fellows having a design to rob, are said by miracle to have stood still in the place, as if they had been tied with Cords: These Thieves I say) "were by his means or "sufferance given up to the severity of the Laws, and condemned to the "Gallows or Gibbet. Let not any one think that in this middle Age, this *Gallows* or *Gibbet* I spoke of, was any other thing than the *Roman Furca*, upon

V. Inæ leg. cap. 13.

Malmsb. de gest. Pontif. l. 1.
Ranulph. Higden in Polychron.
Joan. Carnotensis de nugis curial. l. 6. c. 17.
Caxt. cap. 96.

upon which people hang and are ſtrangled till they die.

34. "*Egbert* King of the *Weſt-Saxons* (I make uſe of *Camdens* words) "having gotten in four Kingdoms by conqueſt, and devour'd the other two "alſo in hope, that what had come under the Government of one, "might likewiſe go under one name; and that he might keep up the "memory of his own people the *Angles*, he gave order by Proclamation, "that the *Heptarchy* which the *Saxons* had poſſeſt, ſhould be called **Engeland**. *John Carnotenſis* writes, that it was ſo called from the firſt coming in of the *Angles*; and another ſome body ſays it was ſo named from *Hengiſt* a *Saxon* Prince.

There are a great many Laws of King *Ina*, *Alfred*, *Edward*, *Athelſtan*, *Edmund*, *Edgar*, *Ethelred*, and *Knute* the *Dane*, written in the *Saxon* language; which have laſted till theſe very times. "For King *Knute* "gave order ('tis *William* of *Malmsbury* ſpeaks) that all the Laws which "had been made by former Kings, and eſpecially by his Predeceſſor *E*-"*thelred*, ſhould under pain of his diſpleaſure and a Fine, be conſtantly ob-"ſerved: For the keeping of which, even now in the time of thoſe who "are called the *Good*, people ſwear in the name of King *Edward*; not "that he appointed them, but that he obſerved them. The Laws of *Edward*, who for his piety has the ſirname of *Confeſſor*, are in Readers hands. Theſe of the *Confeſſor* were in *Latin*; thoſe others of *Knute* were not long ſince put into *Latin* by *William Lambard* a learned man, and one very well vers'd in Antiquity; who has recovered them both, and publiſhed the *Saxon* Original with his Tranſlation over againſt it, Printed by *John Day* at *London*, *Anno* 1567. under the Title of *Archaeonomia*, or a Book concerning the ancient Laws of the *Engliſh*. May he have a good harveſt of it as he deſerves.

From Hiſtorians let us borrow ſome other helps for this ſervice.

CHAP.

CHAP. XXIII.

King Alfred *divides* England *into Countyes or Shires, and into Hundreds and Tythings. The Original of* Decenna *or* **Court-leet, Friburg,** *and* **Mainpast.** *Forms of Law, how People were to answer for those whom they had in* **Borgh** *or* Mainpast.

35. "*Ingulph* the Abbot of *Crowland*, writing of King *Alfred* says: That he "was the first of all that changed the Villages or Lordships and Pro-"vinces of all *England* into *Counties* or *Shires*. Before that it was reckon-ed and divided according to the number of *Hides* or Plough-lands by lit-tle districts or quarters. He divided the Counties into *Hundreds* and *Ty-things*; (it was long before that *Honorius*, Arch-Bishop of *Canterbury*, had parted the Country into *Parishes*; to wit, *Anno* 636.) that every "Native home-born lawful man, might be in some Hundred and Tything "(I mean whosoever was full twelve years of age) and if any one should "be suspected of Larceny or Theft, he might in his own Hundred or "Ward, being either condemned or giving security (in some Manuscripts "it is being acquitted) he might either incur or avoid the deserved pe-"nalty. *William* of *Malmsbury* adds to this, that he that could not find "security was afraid of the severity of the Laws; and if any guilty per-"son, either before his giving security or after, should make his escape, "all of that Hundred and Tything should incur the Kings fine.

Rotulus Wintoniæ.

Hist. Cantuariensis.

Canut. leg. 19.

Here we have the Original of *Decenna* or a *Court-leet*, of *Friburg*, and perhaps of *Mainpast*: Which things though grown out of use in the present Age; yet are very often mentioned, not only in the *Confessors* Laws, but also in *Bracton* and in other Records of our Law.

Leg. Edw. Confess. cap. 20.

Bract. de coronâ, l. 3. c. 10.

What *Decenna* was, the word it self does almost shew: And *Ingulph* makes out, that is, a **Dousin** or *Court leet*.

Friburg or **Borgh** signifies a *Surety*; for **Fri** is all one as *free*.

He who passes his word for anothers good behaviour, or good abearing, and is become his security; is said to have such a one in his **Borgh**: Being ingaged upon this account to the Government, to answer for him if he misbehave himself. And hence it is, that our people in the Country call those that live near them, or as I may say at the next door, **Neighbours**: When yet those that would find out the reason why the people of *Liege* in the Low Countries are called *Eburones*, do understand that **Burgh**, which is the same as **Borgh**, to stand for a *Neighbour*; and this is plainly affirmed by *Pontus Heuterus*, in other Originations of the like kind.

Pont. Heut. de vet. Belg. l. 1. c. 13.

Manupastus is the same thing as a *Family*: As if one would say, *fed by hand*. Just in the like sence *Julius Pollux*, in *Greek* terms a Master of a Family, *Trophimos*; that is, the *feeder* of it.

Jul. Pollux. l. 3. c. 8.

That the Rights of *Friburg* and *Manupast* were in use with the *English* some five or six Generations ago, is manifest. *Curio* a Priest is fined by *Edward* the third, because there had been one of his Family a Murderer. And the ancient Sheets concerning the Progress or Survey of *Kent* under *Edward* the second, do give some light this way. "*Ralph* a Milner of "*Sandon*, and *Roger* a Boy of the said *Ralph* in Borgh of * *Twicham*; (Critick

3. Edw. III. Itin. North. tit. Coron. 293.

6 Edw. 2. Itin. Cant.

* Perhaps it should be *Tis-cham*.

tick whoever you are, I would not have you to laugh at this home-spun Dialect) "came by night to the Mill of *Harghes*, and then and there mur-"dered *William* the Milner; and carried away his Goods and Chattels "and presently fled: It is not known whither they are gone, and the Ju-"ry mistrusts them the said *Ralph* and *Roger* concerning the death of the "aforesaid *William*; therefore let them be driven out and out-lawed. "They had no Chattels, but the aforesaid *Ralph* was in Borgh of *Simon* "*Godwin* of *Twicham*, who at present has him not; and therefore lies at "mercy: And *Roger* was not in Borgh, but was of the Mainpast of *Ro*-"*bert* Arch-Bishop of *Canterbury* deceased; there being no *Engleshire* pre-"sented, the Verdit is, the murder upon the Hundred. The first disco-"verer of it and three Neighbours are since dead; and *Thomas Broks*, one "of the Neighbours, comes and is not mistrusted; and the Villages of "*Wimesbugenelle* and *Egestonn* did not come fully to the Coroners Inquest "and are therefore at mercy. And about the same time, *Solomon Rois* "of *Ickham* came to the House of *Alice* the Daughter of *Dennis Whenes*, "and beat her and struck her upon the Belly with a staff; so that she dy-"ed presently. And the foresaid *Solomon* presently fled, and the Jury "mistrust him concerning the death aforesaid; therefore let him be dri-"ven out and be outlawed. He had no Chattels, nor was he in Borgh "because a Vagrant: The Verdit, the murder lies upon the Hundred. *&c.* And according to this form more such Instances.

But let it suffice to have hinted at these things, adding out of *Henry Bracton*; "If out of Frank-pledge an Offender be received in any Village, "the Village shall be at mercy; unless he that fled be such an one, that "he ought not to be in Leet and Frank-pledge; as Nobles, Knights, and "their Parents (their eldest Sons it is in the yearly Records of Law in *Ed*-"*ward* the first's time; and we may take in Daughters too) a Clergy-"man, a Freeman, (I fear this word has crept in) and the like, according "to the custom of the Country; and in which case he, of whose Family "and Mainpast they were, shall be bound in some parts, and shall an-"swer for them; unless the custom of the Country be otherways, that "he ought not to answer for his Mainpast, as it is in the County of "*Hertford*, where a man does not answer for his Mainpast for any of-"fence, unless he return after Felony, or he receive him after the offence "committed, as in the Circuit of *M. de Pateshull* in the County of *Hert*-"*ford*, in such a year of King *Henry* the fifth.

Bract. lib. 3. de Coroni c. 10.

An. 21. Ed. 1.

In sooth these usages do partly remain in our *Tythings* and *Hundreds*, not at all hitherto repealed or worn out of fashion.

CHAP.

CHAP. XXIV.

King Alfred *first appointed Sheriffs. By* Duns Scotus *his advice, he gave Order for the breeding up of Youth in Learning. By the way, what a* **Hide** *of Land is. King* Edgar's *Law for Drinking. Prelates investiture by the Kings Ring and Staff. King* Knute's *Law against any English-man that should kill a* Dane. *Hence* **Englescyre**. *The manner of Subscribing and Sealing till* Edward the Confessor's *time. King* Harald's *Law that no Welch-man should come on this side* Offa's Dike *with a weapon.*

36. "THe Governors of Provinces who before were styled Deputy-"Lieutenants (we return to *Ingulph* and King *Alfred*) He di-"vided into two Offices; that is, into Judges, whom we now call *Ju-"stices*, and into *Sheriffs*, who do still retain the same name. Away then with *Polydore Virgil*, who fetches the first *Sheriffs* from the *Norman* Conqueror.

37. *John Scot Erigena* advised the King, that he would have his Subjects instructed in good Letters; and that to that end he would by his Edict take care of that which might be for the benefit of Learning. Where-"upon he gave strict order to all Freemen of the whole Kingdom, who "did at least possess two Hides of Land, that they should hold and keep "their Children till the time of fifteen years of their Age, to learning; "and should in the mean time diligently instruct them to know God.

Alured. Rhivallens. ap. Tuin. Apol. ant. Oxon. l. 2. §. 207.

A **Hide** of Land, that I may note it once for all, and a **Plough-***Land* (that is as much Land as can be well turned up and tilled with one Plough every year) are read as synonymous terms of the same sence, in *Huntingdon*, *Matthew Paris*, *Thomas Walsingham*; and expresly in a very old Charter of *Dunstan*. Although some take a *Hide* for an hundred Acres, and others otherwise; do thou, if thou hadst rather so do, fansie it to be as much ground as one can compass about with a Bull-hide cut into Thongs, as Queen *Dido* did at *Carthage*: There are some who are not unwilling to have it so understood.

38. King *Edgar* like a King of good Fellows, or Master of Revels, made a Law for Drinking. "He gave order that studs or knobs of Silver "or Gold (so *Malmsbury* tells us) should be fastned to the sides of their Cups "or drinking Vessels, that when every one knew his mark or boundary, "he should out of modesty, not either himself covet or force another to "desire more than his stint. This is the only Law before the first Parliament under King *James*, has been made against those *Swill-bowls*,

Συμπωτῶν τοῦτο καὶ κυλίκων ἐρέτας, Dionysius. Æneus.

Swabbers of drunken Feasts and lusty Rowers,
In full brimm'd Rummers that do ply their Oars.

who by their carowses (tipling up *Nestor*'s years, as if they were celebrating the Goddess *Anna Perenna*) do at the same time drink others Healths, and mischief and spoil their own and the Publick.

39. "There was no choice of Prelates (these are the words of *Ingulph* "again) that was merely free and canonical; but the Court conferred "all Dignities, as well of Bishops as of Abbots, by the Kings Ring and "Staff, according to his good pleasure. The Election or choice was in the Clergy and the Monks; but they desired him whom they had chosen, of the King. *Edmund*, in King *Ethelred*'s time, was after this manner made Bishop of the *Holy Island* on the Coast of *Northumberland*: And King *Edgar* in his Patent, which he signed to the Abby of *Glastenbury*, "retained to himself and his Heirs, the power of bestowing the Pastoral "Staff to the Brother Elect.

Malmsb. lib. 3. de Pontif. & de gest. Reg. 2.

40. "To as many as King *Knute* retained with him in *England* (to wit, to the *Danes*; for by their hands also was the Scepter of this Kingdom managed) "it was granted, that they should have a firm peace all over; so "that if any of the *English* killed any of those men, whom the King had "brought along with him; if he could not clear himself by the Judgment "of God (that is, by *Ordeal*) to wit, by water and burning hot iron, "Justice should be done upon him: But if he run away and could not be "taken, there should be paid for him sixty six marks; and they were ga-"thered in the Village where the Party was slain, and therefore because "they had not the murderer forth coming; and if in such Village by rea-"son of their poverty, they could not be gathered, then they should "be gathered in the Hundred, to be paid into the Kings Treasure. In this manner writes *Henry Bracton*, who observes that hence the business of **Englishshire** came into fashion in the Inquests of murder.

Bract. lib. 3. de Coron. cap. 15.

Ingulphus.

41. "Hand-Writings (*i.e.* Patents and Grants) till *Edward* the *Confessor's* "time, were confirmed by the subscriptions of faithful Persons present; a thing practised too among the *Britans* in King *Arthur*'s time, as *John Price* informs us out of a very ancient Book of the Church of *Landaff*. "Those subscriptions were accompanied with Golden Crosses, and other "sacred Seals or like stamps.

Joh. Pris. de-tenas. hist. Brit.

42. "King *Harald* made a Law, that whosoever of the *Welch* should "be found with a Weapon about him without the bound which he had "set them, to wit, *Offa's dike*; he should have his Right Hand cut off "by the Kings Officers. This dike our Chorographer tells us was cut by *Offa* King of the *Mercians*, and drawn along from the mouth of the River *Dee* to the mouth of the River *Wye* for about eighty miles in length, on purpose to keep the *English* and *Welch* asunder.

Camdenus è Sarisburiensi.

CHAP.

CHAP. XXV.

The Royal Consorts great Priviledge of Granting. Felons Estates forfeited to the King. Estates granted by the King with three Exceptions of Expedition, Bridge, and Castle. The Ceremony of the Kings presenting a Turf at the Altar of that Church, to which he gave Land. Such a Grant of King Ethelbald *comprized in old Verse.*

THe Donations or Grants of the *Royal Consort*, though not by the Kings Authority, contrary to what the Priviledge of any other Wife is, were ratified also in that Age, as they were by the *Roman* Law: Which by the Patent of *Æthelswith*, Wife to *Burghred* King of the *Mercians*, granted to *Cuthwuls* in the year 868. hath been long since made out by Sir *Edward Coke*, Lord Chief Justice of the Common Pleas: Where also King *Ethelred*'s ancient Charter proves, that the Estates of Felons (those I mean who concern themselves in Burglaries and Robberies) are forfeited to the King.

C. de donat. inter virum & uxorem. l. 26.

In Epist. ad l. 6. Relat.

Having already mentioned those Hand-writings or Grants, which are from one hand and t'other, conveyances of Tenure (the fewel of quarrels) I have a mind, over and above what has been said, to set down also these Remarks, as being to our purpose; and taken from the *Saxons*. As for instance, that those are most frequent whereby Estates are conveyed to be held with the best and fairest right; yet most commonly these three things excepted, to wit, *Expedition*, Repairing of *Bridges*, and Building of *Castles*: And that those to whom the Grants were made, were very seldom acquitted upon this account. These three exceptions are noted by the term of a *three-knotted necessity* in an old Charter, wherein King *Cedwalla* granted to *Wilfrid* (the first Bishop of *Shelsey* in *Sussex*) the Village of *Paganham* in the said County. "For though in the Grants "of King *Ethelulph* the Church be free (says *Ingulph*) and there be a con- "cession of all things for the release of our Souls, and pardon of our sins "to serve God alone without Expedition, and building of Bridge, and "fortifying of Castle; to the intent that the Clergy might wholly attend Divine Service: Yet in that publick debate of Parliament, in the Reign of *Henry* the third, concerning the ancient State, Freedom, and Government of the *English Church*; and concerning the hourly exactions of the *Pope* and the *Leeches*, Jugglers and Decoys of *Rome*, that strolled up and down the Country to pick Peoples Pockets, to the great prejudice of the Common-wealth; they did indeed stand for the priviledge of the Church, and produced as Witnesses thereof the Instruments and Grants of Kings; who nevertheless were not so much inclined to countenance that liberty of the Church, but that, as *Matthew Paris* observes, "They always re- "served

Anno Dom. 680.

Ingulph.

Matth. Paris hist. major. pag. 838.

"ſerved to themſelves for the publick advantage of the Kingdom, three "things; to wit, Expedition, and the repairing or making up of Bridge "or Caſtle; that by them they might withſtand the incurſions of the "Enemy. And King *Ethelbald* hath this form: I grant that all the "Monaſteries and Churches of my Kingdom be diſcharged from pub-"lick Cuſtoms or Taxes, Works or Services, and Burdens or Pay-"ments or Attendances, unleſs it be the building and repairing of Ca-"ſtles or Bridges, which cannot be releaſed to any one.

Ingulph.

Ralph Holinshed in Hen. 7.

I take no notice how King *Ethelred* the twelfth perhaps (but by no means the fifteenth, wherein an Hiſtorian of ours has blundred) hath ſigned the third year of his Reign by the term of an *Olympiad*, after the manner of the *Greek* computation or reckoning: As likewiſe I paſs other things of the like kind, which are many times uſed and practiſed according to the fancy of the Clerks or Notaries. However the laſt words, which are the cloſe of theſe Grants and Patents, are not to be ſlighted. Theſe we may ſee in that of *Cedwalla*, King of the *South-Saxons*, made to *Theodore* Arch-Biſhop of *Canterbury*, in the year 687. thus.

Chart. Archiep. Cant.

See the Charter of Edw. Conf. in Engliſh Rhyme, Camden in Eſſex.

"For a further confirmation of my grant, I *Cedwalla* have laid a "Turf of the Land aforeſaid upon the holy Altar of my Saviour: And "with my own hand, being ignorant of Letters, have ſet down "and expreſſed the mark or ſign of the Holy Croſs. Concerning *Withred* and a Turf of Land in *Kent*, *Camden* has the ſame thing; "And King *Ethelulph* is ſaid to have offered his Patent, or Deed of "Gift, on the Altar of the holy Apoſtle St. *Peter*.

Ingulph.

For a concluſion, I know no reaſon why I may not ſet underneath, the Verſes of an old Poet, wherein he hath compriſed the inſtrument or Grant of founding an Abby, which *Ethelbald*, King of the *Mercians*, gave to *Kenulph* Abbot of *Crowland*: Verſes, I ſay, but ſuch as were made without *Apollo*'s conſent or knowledge.

Ingulph.

Iſtum Kenulphum *ſi quis vexaverit Anglus,*
Rex condemno mihi cuncta catella ſua.
Inde meis Monachis de damnis omnibus ultrà
Uſque ſatisfaciat; carcere clauſus erit.
Adſunt ante Deum teſtes hujus dationis
Anglorum proceres Pontificesque mei.
Sanctus * Guthlacus *Confeſſor & Anachorita*
Hic jacet, in cujus auribus iſta loquor.
Oret pro nobis ſanctiſſimus iſte Sacerdos,
Ad tumbam cujus hæc mea dona dedi.

* The Saint, to whom the Monaſtery was dedicated.

Which in Rhyme dogrel will run much after this hobling rate.

If any English bey this Kenulph, shall
I King condemn to me his Chattels all.
Thencefoyth, until my Monks be satisfie,
For damages, in Prison he shall lye.
Witnesses of this Gift here in Gods sight
Are English Peers and Prelates of my Right.
Saint Guthlac Confessor and Anchoret,
Lies here, in whose Ears these words I speak yet.
May he pray for us that most holy Priest,
At whose Tomb these my Gifts I have addrest.

Thus they closed their Donations or Grants; thus we our Remarks of the *Saxons*, being now to pass to the *Normans*.

THE

THE SECOND BOOK OF THE ENGLISH JANUS.

From the NORMAN Conquest, to the Death of King *Henry* II.

CHAP. I.

William *the Conquerour's Title. He bestows Lands upon his followers, and brings Bishops and Abbots under Military Service. An account of the old English Laws, called* **Merchenlage, Danelage** *and* **Westsaxen-lage.** *He is prevailed upon by the Barons, to govern according to King* Edward's *Laws, and at* S. Albans *takes his Oath so to do. Yet some new Laws were added to those old ones.*

WILLIAM Duke of *Normandy* upon pretence of a double Right, both that of Blood (inasmuch as *Emme* the Mother of *Edward the Confessor*, was Daughter to *Richard* the first Duke of the *Normans*) and withal that of Adoption, having in Battel worsted *Harald* the Son of *Godwin* Earl of *Kent*, obtain'd a large Inheritance, and took possession of the Royal Government over all *England*.

'After his Inauguration he liberally bestowed the Lands and Estates

'of

'of the *English* upon his fellow-soldiers; that little which remained (so 'saith *Matthew Paris*) he put under the yoke of a perpetual servitude. Upon which account, some while since the coming in of the *Normans*, there was not in *England* except the King himself, any one, who held Land by right of *Free-hold* (as they term it:) since in sooth one may well call all others to a man only Lords in trust of what they had; as those who by swearing fealty, and doing homage, did perpetually own and acknowledge a Superior Lord, of whom they held, and by whom they were invested into their Estates.

'All Bishopricks and Abbacies, which held Baronies, and so far 'forth had freedom from all Secular service (the fore-cited *Matthew* is 'my Author) he brought them under Military service, enrolling every 'Bishoprick and Abbacy according to his own pleasure, how many Soul-'diers he would have each of them find him and his Successors in time 'of Hostility or War.

Gerv. Tilb. de scacc. cap. 32.

Having thus according to this model ordered the *Agrarian* Law for the division and settlement of Lands, 'he resolved to govern his Sub-'jects (we have it from *Gervase* of *Tilbury*) by Laws and Ordinances 'in writing: to which purpose he proposed also the *English* Laws ac-'cording to their Tripartite or threefold distinction; that is to say, *Mer-'chenlage*, *Danlage* and *Westsaxenlage*.

Merchenlage, that is, the Law of the *Mercians*; which was in force in the Counties of *Glocester*, *Worcester*, *Hereford*, *Warwick*, *Oxford*, *Chester*, *Salop* and *Stafford*.

Danlage, that is, the Law of the *Danes*; which bore sway in *Yorkshire*, *Derby*, *Nottingham*, *Leicester*, *Lincoln*, *Northampton*, *Bedford*, *Buckingham*, *Hertford*, *Essex*, *Middlesex*, *Norfolk*, *Suffolk*, *Cambridge*, *Huntingdon*.

Westsaxenlage, that is, the Law of the *West-Saxons*; to which all the rest of the thirty two Counties (which are all that *Malmesbury* reckons up in *Ethelred*'s time) did belong; to wit, *Kent*, *Sussex*, *Surrey*, *Berks*, *Southampton*, *Winton*, *Somerset*, *Dorset* and *Devon*.

'Some of these *English* Laws he disliked and laid aside; others he ap-'proved of, and added to them, some from beyond Sea out of *Neustria* (he means *Normandy*, which they did of old, term *Neustria* corruptly, instead of *Westrich*, as being the more Western Kingdom of the *Franks*, and given by *Charles the Simple* to *Rollo* for his Daughter *Gilla* her portion) 'such of them as seemed most effectual for the preserving of the 'Kingdoms peace. This saith he of *Tilbury*.

Now this is no rare thing among Writers for them to devise, that *William* the Conqueror brought in as it were a clear new face of Laws to all intents and purposes. 'Tis true, this must be acknowledg'd, that he did make some new ones (part whereof you may see in *Lambard*'s *Archaeonomia*, and part of them here subjoyned) but so however that they take their denomination from the *English*, rather than from the *Normans*; although one may truly say, according to what Lawyers dispute, that the *English* Empire and Government was overthrown by him. That he did more especially affect the Laws of the *Danes* (which were not much unlike to those of the *Norwegians*, to whom *William* was by his Grand-father allied in blood) I read in the Annals of *Roger Hoveden*. And that he openly declared, that he would rule by them; 'at hearing 'of which, all the great men of the Countrey, who had enacted the '*English* Laws, were presently struck into dumps, and did unanimously

'petition

'petition him, That he would permit them to have their own Laws 'and ancient Customs; in which their Fathers had lived, and they them-'selves had been born and bred up in; forasmuch as it would be very 'hard for them to take up Laws that they knew not, and to give judge-'ment according to them. But the King appearing unwilling and un-'easie to be moved, they at length prosecuted their purpose, beseeching 'him, that for the Soul of King *Edward*, who had after his death given 'up the Crown and Kingdom to him, and whose the Laws were, and not 'any others that were strangers, he would hearken to them and grant 'that they might continue under their own Countrey Laws. Where-'upon calling a Council, he did at the last yield to the request of the 'Barons. From that day forward therefore the Laws of King *Edward*, 'which had before been made and appointed by his Grand-father *Adgar*, 'seeing their authority, were before the rest of the Laws of the Coun-'trey respected, confirmed and observed all over *England*. But what then? Doth it follow that all things in *William*'s time were new? How can a man chuse but believe it? The Abbot of *Croyland* sayes this of it, 'I have brought with me from *London* into my Monastery the Laws of 'the most Righteous King *Edward*, which my Renowned Lord King '*William* hath by Proclamation ordered, under most grievous penalties, 'to be authentick and perpetual, to be kept inviolably throughout 'the whole Kingdom of *England*, and hath recommended them to his 'Justices, in the same language wherein they were at first set forth 'and published. And in the Life of *Fretherick* Abbot of S. *Albans* you have this account: 'After many debates, Arch-Bishop *Lanfrank* being 'then present (at *Berkhamstead* in *Hartfordshire*) the King did for the 'good of peace, take his Oath upon all the Reliques of the Church of 'S. *Alban*, and by touching the holy Gospels, *Fretherick* the Abbot ad-'ministring the Oath, that he would inviolably observe the good and ap-'proved ancient Laws of the Kingdom, which the holy and pious Kings 'of *England* his Predecessors, and especially King *Edward* had appointed. Camden.

But you will much more wonder at that passage of *William* le Rouille of *Alençon* in his Preface to the *Norman* Customs. 'That vulgar Chro-'nicle, saith he, which is intitled the *Chronicle of Chronicles*, bears wit-'ness, that S. *Edward* King of *England*, was the Maker or Founder of 'this Custom; where he speaks of *William* the Bastard Duke of *Nor-'mandy*, *alias* King of *England*, saying, that whereas the foresaid S. *Ed-'ward* had no Heirs of his own Body, he made *William* Heir of the King-'dom, who after the Defeat and Death of *Harald* the Usurper of the 'Kingdom, did freely obtain and enjoy the Kingdom upon this conditi-'on, to wit, that he would keep the Laws which had before been made 'by the fore-mentioned *Edward*; which *Edward* truly had also given 'Laws to the *Normans*, as having been a long time also brought up 'himself in *Normandy*. Guil. le Rouille Alencon.

Where then, I pray you, is the making of new Laws? Why! without doubt, according to *Tilbury*, we are to think, that together with the ratifying of old Laws, there was mingled the making of some new ones; and in this case one may say truly with the Poet in his Panegyrick:

Claudian. In 4. conf. Honorii.

Firmatur senium Juris, priscamque resumunt
Canitiem leges, emendanturque vetustæ,
Acceduntque novæ. ———

which in *English* speaks to this sense;

The Laws old age stands firm by Royal care,
Statutes resume their ancient gray hair.
Old ones are mended with a fresh repair;
And for supply some new ones added are.

See here! we impart unto thee, Reader, these new Laws, with other things, which thou maist justly look for at my hands in this place.

CHAP.

CHAP. II.

The whole Country inrolled in Dooms-day Book. *Why that Book so called.* Robert *of* Glocester's *Verses to prove it. The Original of Charters and Seals from the* Normans, *practised of old among the* French. *Who among the* Romans *had the priviledge of using Rings to seal with, and who not.*

1. 'HE caused all *England* to be described, and inrolled (a whole 'company of Monks are of equal authority in this business, but we make use of *Florentius* of *Worcester* for our witness at this time) 'how much Land every one of his Barons was possessed of, how many 'Soldiers in fee, how many Ploughs, how many Villains, how many 'living Creatures or Cattel, I, and how much ready mony every one 'was Master of throughout all his Kingdom, from the greatest to the 'least; and how much Revenue or Rent every Possession or Estate was 'able to yield. Dooms-day.

That breviary or *Present State* of the Kingdom being lodged in the Archives 'for the generality of it, containing intirely all the Tenements 'or Tenures of the whole Country or Land was called Dooms-day, as if one would say, *The day of Doom* or Judgment. 'For this reason, saith 'he of *Tilbury*, we call the same *Dooms-day Book*: Not that there is in it 'sentence given concerning any doubtful cases proposed; but because it 'is not lawful upon any account, to depart from the *Doom* or Judgment 'aforesaid.

Reader, If it will not make thy nice Stomach wamble, let me bring in here an old fashioned Rhyme, which will hardly go down with our dainty finical Verse-wrights, of an historical Poet *Robert* of *Glocester*: One whom, for his Antiquity, I must not slight concerning this Book.

The K. W. for to wite the worth of his londe
Let enqueri streitliche thorv al Engelonde,
hou moni plou lond, and hou moni hiden also
Were in everich shire, and wat hii were wurth yereto:
And the rents of each toun, and of the waters echone,
That wurth, and of woods eke, that there ne bilevED none,
But that he wist wat hii were wurth of al Engelonde,
And wite al clene that wurth thereof ich understond
And let it write clene inou, and that scrit dude iwis
In the Tresorie at Westminster there it put as.
So that vre Kings suth, when hii ransome toke
And redy wat folc might give, hii fond there in yor boke.

Considering how the *English* Language is every day more and more refined, this is but a rude piece, and looks scurvily enough. But yet let us not be unmindful neither, that even the fine trim artifices of our quaint Masters of Expression, will themselves perhaps one day, in future Ages, that shall be more critical, run the same risk of censure, and undergo the like misfortune: And that,

Horat. art. poetic.

Multa renascentur quæ nunc cecidere, cadentque
Quæ nunc sunt in honore ;———

As *Horace* the Poet born at *Venusium*, tells us: That is,

Several words which now are fal'n full low,
Shall up again to place of honour start;
And words that now in great esteem, I trow,
Are held, shall shortly with their honour part.

2. 'The *Normans* called their Writings given under their hand, Char-'ters (I speak this out of *Ingulph*) and they ordered the confirmation of 'such Charters with an impression of Wax, by every ones particular 'Seal, under the Testimony and Subscription of three or four Witnesses 'standing by.

But *Edward the Confessor* had also his Seal, though that too from *Normandy*. For in his time, as the same Writer saith, 'Many of the *En-'glish* began to let slip and lay aside the *English* Fashions, bringing in 'those of the *Normans* in their stead, and in many things to follow the 'customs of the *Franks*; all great persons to speak the *French* Tongue in 'their Courts, looking upon it as a great piece of gentility, to make 'their Charters and Writings *alamode of France*; and to be ashamed of 'their own Country usages in these and other like cases. Nay, and if *Leland*, an Eye-witness, may be believed, our great Prince *Arthur* had his Seal also, which he saith he saw in the Church of *Westminster* with this very inscription.

Leland.

PATRITIUS. ARTHURIUS. BRITANNIÆ. GALLIÆ. GERMANIÆ. DACIÆ. IMPERATOR.

That is,

The Right Noble, ARTHUR, *Emperor of* Britanny, France, Germany, *and* Transylvania.

But that the *Saxons* had this from the *Normans*, is a thing out of all question. Their Grants or Letters Patents signed with Crosses, and subscribed with Witnesses names, do give an undoubted credit and assurance to what I have said. *John Ross* informs us that *Henry Beauclerk* was the first that made use of one of Wax; and *Matthew of Canterbury*, that *Edward* the first did first hang it at the bottom of his Royal Writings by way of Label; whereas before, his Predecessors fastned it to the left side. Such a writing of *Henry* the first in favour of *Anselm*, the last Author makes mention of; and such an one of *William*'s Duke of the *Normans*, though a very short one and very small written; *Brian Twine* in his *Apology for the Antiquity* of the famous University of *Oxford* (the great Study and support of *England*, and my ever highly honoured Mother) saith, he had seen in the Library of the Right Honourable my Lord *Lumley*.

Matth. Cantu. in Antiq. Eccles. Britan.

Tuin. apol. ant Oxon. lib. 1. §. 81.

But let a circumcised *Jew*, or who else will for me, believe that story concerning the first Seal of Wax, and the first fastning of it to the Writing: A great many waxen ones of the *French* Peers (that I may say something of those in wax) and Golden ones of their Kings (to wit, betwixt

twixt the years 600 and 700) we meet with fashioned like Scutcheons or Coats of Arms in those Patterns or Copies which *Francis de Rosieres* has in his first Tome of the Pedigree or Blazonry of the Dukes of *Lorain*, set down by way of Preface. Nor was it possible that the *Normans* should not have that in use, which had been so anciently practised by the *French*. Let me add this out of the ancient Register of *Abendon*: 'That '*Richard* Earl of *Chester* (who flourished in the time of *Henry* the first) 'ordered to sign a certain Writing with the Seal of his Mother *Ermentrude*; 'seeing that (being not girt with a Soldiers Belt, *i. e.* not yet made 'Knight) all sorts of Letters directed by him, were inclosed with his 'Mothers Seal.

Camden in Ord. Angl.

How? what is that I hear? Had the Knightly dignity and Order the singular priviledge, as it was once at *Rome*, to wear Gold-Rings? For Rings (as 'tis related out of *Ateius Capito*) were especially designed and ingraven for Seals: Let *Phœbus*, who knows all things, out of his Oracle tell us. For Servants or Slaves (so says *Justus Lipsius*, and remarks it from those that had been dug up in *Holland*) and common Soldiers were allowed iron ones to sign or to seal with (which therefore *Flavius Vopiscus* calls *annulos sigillaricios*, *i. e.* seal-Rings) and so your ordinary Masters of Families had such, with a Key hanging at it to seal and lock up their provision and utensils. 'But, saith *Ateius* of the ancient time, Neither 'was it lawful to have more than one Ring, nor for any one to have one 'neither but for Freemen, whom alone trust might become, which is 'preserved under Seal; and therefore the Servants of a Family had not 'the Right and Priviledge of Rings. I come home to our selves now.

Macrob. Saturn. lib. 7. cap. 13.

Vopisc. in Aurel.

Lipf. ad 2. Annal. Tacit. num. 4.

CHAP.

CHAP. III.

Other ways of granting and conveying Estates, by a Sword, &c. particularly by a Horn. Godwin's *trick to get* Boseham *of the Arch-Bishop of* Canterbury. *Pleadings in* French. *The* French *Language and Hand when came in fashion. Coverfeu. Laws against taking of Deer, against Murder, against Rape.*

Ingulph. 3. 'AT first many Lands and Estates were collated or bestowed by 'bare word of mouth, without Writing or Charter, only 'with the Lords Sword or Helmet, or a Horn or a Cup; and very many 'Tenements with a Spur, with a Currycomb, with a Bow, and some 'with an Arrow: But these things were in the beginning of the *Norman* 'Reign, in after times this fashion was altered, says *Ingulph*.

I, and these things were before the *Normans* Government. Let King *Edgar* his Staff cut in the middle, and given to *Glastenbury Abbey* for a testimony of his Grant, be also here for a testimony. And our Antiquary has it of **Pusey** in *Berkshire*, 'That those who go by the name of **Pu**'**sey** do still hold by a Horn, which heretofore had been bestowed upon 'their Ancestors by *Knute* the *Danish* King. In like manner, to the same purpose an old Book tells this story: 'That one *Ulphus* the Son of *Toraldus*, 'turned aside into *York*, and filled the Horn that he was used to drink out 'of, with Wine; and before the Altar upon his bended knees, drinking 'it, gave away to God and to St. *Peter*, the Prince of the Apostles, all his 'Lands and Revenues. Which Horn of his, saith *Camden*, we have been told was kept or reserved down to our Fathers memory. We may see the conveyance of Estate, how easie it was in those days, and clear from the punctilio's of Law, and withal how free from the captious malice of those petty-foggers who would intangle Titles and find flaws in them, and from the swelling Bundles and Rolls of Parchments now in use.

Malmsb. lib. 2. cap. 8.

A. Ch. 780.

But commend me to *Godwin* Earl of *Kent*, who was, to use *Hegesander*'s word, too great a Συλλαβοτριπλαβίτης, *catcher at Syllables*, and as the Comedian says, *more shifting than a Potters wheel*: 'Give me (saith he to the Arch-Bishop of *Canterbury*) '**Boseham**. The Arch-Bishop admiring 'what it was he would be at in that question, saith, I give you **Boseham**. He straight upon the confidence of this deceit, without any more ado entred upon an Estate of the Arch Bishops of that name on the Sea-coasts of *Sussex*, as if it had been his own by Inheritance: And with the 'testimony of his people about him, spoke of the Arch-Bishop before the 'King as the donor of it, and quietly enjoyed it. Those things I spoke of before (to wit, of *Sword*, *Horn*, *&c.*) smell of that way of investing into Fees which we meet with in *Obertus de Orto*; but are very unlike to that solemn ceremony which is from ancient time even still used in conveying of an Estate and delivering possession, wherein a green Turf or the bough of a growing Tree is required.

Guil. Malmsb. Camden.

Lib. feud. 2. tit. 2.

4. 'They did so much abhor the *English* tongue ('tis the Abbot of *Crowland* saith it) 'that the Laws of the Land, and the Statutes of the *En*'*glish* Kings, were handled or pleaded in the *French* language. For till 'the thirty sixth year of *Edward* the third, all businesses of Law were 'pleaded

Stat. 36 Ed. 3. cap. 15.

'pleaded in *French*. That also in Schools the Rudiments of Grammati-
'cal Institution, were delivered to Boys in *French* and not in *English*.
'Also that the *English* way and manner of Writing was laid aside, and
'the *French* mode was made use of in all Charters or Instruments and
'Books.

Indeed it was such a fault to be ignorant in the *French*, or not to be able to speak it; that mainly upon this account, in the Reign of *William Rufus*, *Ulstan* Bishop of *Worcester* was censured as unworthy of his place, and deprived of his dignity, who as to other things according to the simplicity of that Age, was Scholar enough. The Abbot whom I quoted, speaks thus of the *French* Character: 'The *Saxon* hand was used by 'all the *Saxons* and *Mercians* in all their hand-writings, till the time 'of King *Alfred*, who had by *French* Tutors been very well trained up 'in all Literature; but from the time of the said King, it did by disuse 'come to be of little account; and the *French* hand, because it being 'more legible and more delightful to sight, had the preheminence, grew 'more and more every day in vogue and use among all the *English*. Nevertheless however this business went, we are told that in the memory of our Fathers, and that by an ancient order, there were Lectures of the *English-Saxon* language, read at *Tavistock* Abby in *Devonshire*. Matth. Paris.

5. That his new Kingdom might not be disturbed by Riots and disorders in the night, he ordered that at the Ringing of a Bell (which they called the *Curfew*-Bell) all the Lights and Fires should in every little Cottage, a little after the dusk of the Evening, be put out. Polydorus. Coverfeu.

6. 'He that should take a Deer, or *aprum*, a Boar (so says *Huntingdon*, 'but perhaps 'tis *caprum*, a Buck) or a Roe, was to have his eyes thrust 'or plucked out, saith *Matthew Paris*.

7. 'If any one had slain any one ('tis *Huntingdon* writes this) be it 'upon what cause or occasion soever, he was sentenced to a Capital pu-'nishment, he was to die for it.

8. 'If one had forced any woman (so I read *aliquam* any woman, not '*aliquem* any man, as 'tis in the common Prints) he was to have his Pri-'vities cut off. Forced her? I, sure enough; and perhaps he that lay with a woman with her consent, was notwithstanding that, served in the same kind too. And in this case I would have you hear what that great Lawyer *Albericus Gentilis*, his opinion is. 'This I say, saith he, that a 'man hath a greater injury done him, if the woman were not ravished '*per* force, but were debauched and made willing: because in this case 'her mind is estranged from her Husband; but in that other, not. Alberic. Gentil. de jure bell. lib. 1. c. 20.

CHAP.

CHAP. IV.

Sheriffs and Juries were before this time. The four Terms. Judges to Act without Appeal. Justices of Peace. The Kings payments made at first in Provisions. Afterwards changed into Mony, which the Sheriff of each County was to pay in to the Exchequer. The Constable of Dover *and Warder of the* Cinque Ports *why made. A disorder in Church-affairs Reformed.*

POlydore *Virgil* brings in at this time the first *Sheriffs* of Counties, and here places the beginning of *Juries*, or determining of Tryals by the judgment of Twelve; but is out in them both. This of *Juries* is convinced by a Law of *Ethelred* in *Lambard*'s explications of Law-terms, and by those irrefragable arguments which the famous Sir *Edward Coke* brings against it. That other mistake of *Sheriffs* is confuted by what we have formerly noted out of *Ingulph*, and by what we shall hereafter somewhere have occasion to remark. *Mars* being impleaded in the *Areopagus*, the place of Judgment at *Athens*, for the murder of *Halirothius* the Son of *Neptune*, whom he had slain for Ravishing his Daughter *Alcippa*; upon his Tryal by twelve Gods, was acquitted by six Sentences or Votes: For if the number were equal and no majority, the Person was not condemned but discharged. My meaning why I put in this Story, is to shew the most ancient use of this number of *twelve* in Tryals elsewhere, as well as amongst us. An *Italian* might well mistake in a concern of *England*; yet take it not ill at my hands, that I have given you this upon his credit.

August. de Civ. Dei. l. 18. c. 10. Pausan. Atticis.

Terms.

9. 'He appointed that four times every year, there should be kept 'Conventions or Meetings for several days, in such place as he himself 'should give order: In which Meetings the Judges sitting apart by them-'selves, should keep Court and do Justice. These are our four **Terms**.

10. 'He appointed other *Judges*, who without appeal should exercise 'Jurisdiction and Judgment; from whom as from the bosom of the 'Prince, all that were ingaged in quarrels, addressing thither, might have 'right done them, and refer their controversies to them.

Justices of Peace.

11. 'He appointed other Rulers or Magistrates, who might take care 'to see misdemeanors punished; these he called **Justices of Peace**. Now one may well imagine, that this name of Office is most certainly of a later date, and a foreign Writer is to be excused by those rights which are afforded to Guests and Strangers (since acting a *Busiris* his part against them, would be downright barbarous) I say he is to be excused so far, as not to have his mistakes in the History of the *English* Nation, too heavily charged upon him.

12. 'In the Primitive State of the Kingdom after the Conquest (*Gervase of Tilbury* in his Dialogue of the Exchequer, saith, this is a thing handled down from our Forefathers) 'the Kings had payments made 'them

'them out of their Lands, not in sums of Gold or Silver, but only in Vi-'ctuals or Provisions: Out of which the Kings house was supplied with 'necessaries for daily use; and they who were deputed to this service (the Purveyors) 'knew what quantity arose from each several land. But 'yet as to Soldiers pay or donatives, and for other necessaries concerning 'the Pleas of the Kingdom, or Conventions, as also from Cities and Ca-'stles where they did not exercise Husbandry or Tillage; in such instan-'ces, payments were made in ready mony. Wherefore this Institution 'lasted all the time of *William* the First, to the time of King *Henry* his 'Son, so that I my self (*Gervase* flourished in the Reign of *Henry* the se-cond) 'have seen some people, who did at set times carry from the Kings 'Lands, victuals or provisions of food to Court. And the Officers also 'of the Kings house knew very well, having it upon account, which 'Counties were to send in Wheat, which to send in several sorts of flesh, 'and Provender for the Horses. These things being paid according to 'the appointed manner and proportion of every thing, the Kings 'Officers reckoned to the *Sheriffs* by reducing it into a sum of 'pence; to wit, for a measure of Wheat to make bread for a hundred 'men, one shilling; for the body of a pasture-fed Beef, one shilling; 'for a Ram or a Sheep four pence; for the allowance of twenty horses 'likewise four pence: But in process of time, when as the said King was 'busie in remote parts beyond Sea to appease Tumults and Insurrections; 'it so happened, that ready mony was highly necessary for him to supply 'his occasions. In the mean time, there came in multitudes, a great 'company of Husbandmen with complaints to the Kings Court, or which 'troubled him more, they frequently came in his way as he was passing 'by, holding up their Ploughshares, in token that their Husbandry was 'running to decay; for they were put to a world of trouble, upon occa-'sion of the provisions which they carried from their own quarters 'through several parts of the Kingdom. Thereupon the King being 'moved with their complaints, did by the resolved advice of his Lords, 'appoint throughout the Kingdom such persons, as he knew were, for 'their prudence and discretion, fit for the service. These persons going 'about, and that they might believe their own eyes, taking a view of 'the several Lands, having made an estimate of the provisions which 'were paid out of them, they reduced it into a sum of pence. But for 'the total sum, which arose out of all the Lands in one County, they or-'dered, that the *Sheriff* of that County should be bound to the Exche-'quer: Adding this withal, that he should pay it at the *Scale*. Now the manner of paying, the tryal of the weight and of the metal by Chymical operation, the Melter or Coyner, and the surveyor of the Mint, are more largely handled and explained by my self in some other work of mine.

13. 'That he might the more firmly retain *Kent* to himself, that be-'ing accounted as it were *the Key of England*; ('tis the famous Mr. *Camden* tells the Story) 'he set a *Constable* over *Dover-Castle*, and made the 'same person *Warden of the Cinque Ports*, according to the old usage of 'the *Romans*. Those are Hastings, Dover, Hith, Rumney, and 'Sandwich; to which are joyned Winchelsey and Rye as Principals, 'and other little Towns as Members.

14. To put the last hand to *William*, I add out of the *Archives*, this Law, not to be accounted among the last or least of his.

A. M. 66. In Bor. chart. 2 Rich. 2. pro decan. & capit. Eccles. Lincoln.

William, *by the Grace of God, King of the* English, *to all Counts or Earls, Viscounts or Sheriffs, and to all* French *born, and* English *men, who have Lands in the Bishoprick of* Remigius, *greeting.*

This *Remigius* was the first who translated the Episcopal See from *Dorchester* to *Lincoln.*

'Be it known unto you all, and the rest of my Liege Subjects, who 'abide in *England*; that I, by the common advice of my Arch-Bishops, 'and the rest of the Bishops and Abbots, and all the Princes of my King-'dom, have thought fit to order the amendment of the Episcopal Laws, 'which have been down to my time, in the Kingdom of the Angles, 'not well, nor according to the Precepts of the holy Canons, ordained 'or administred: Wherefore I do command, and by my Royal Autho-'rity strictly charge; that no Bishop or Arch-deacon, do henceforth 'hold Pleas in the Hundred concerning Episcopal Laws; nor bring any 'cause which belongs to the Government of Souls (*i.e.* to spiritual affairs) 'to the judgment of secular men; but that whosoever, according to the 'Episcopal Laws, shall for what cause or fault soever be summoned, shall 'come to a place which the Bishop shall chuse and name for this purpose; 'and there make answer concerning his cause, and do right to God and 'his Bishop, not according to the Hundred, but according to the Canons 'and Episcopal Laws. For in the time of the *Saxon* Empire, there were wont to be present at those Country Meetings (the *Hundred* Courts) an *Alderman* and a *Bishop*, the one for Spirituals, the other for Temporals, as appears by King *Edgar*'s Laws.

Leg. Edgar. cap. 5.

CHAP.

CHAP. V.

William Rufus *succeeds.* Annats *now paid to the King. Why claimed by the Pope. No one to go out of the Land without leave. Hunting of Deer made Felony.*

AFter the death of *William*, his second Son *WILLIAM* sirnamed *RUFUS* succeeded in his room. All Justice of Laws (as *Florentius of Worcester* tells us) 'was now husht in silence, and 'Causes being put under a Vacation without hearing, money alone bore 'sway among the great ones,

Ipsaque majestas auro corrupta jacebat. Petron. Arbit.

that is,

And Majesty it self being bribd with gold,
Lay, as a prostitute, expos'd to th' bold.

15. The right or duty of *First-Fruits*, or, as they are commonly called, the *Annats*, which our Kings claimed from vacant Abbies and Bishopricks, *Polydor Virgil* will have to have had its first original from *Rufus*. Now the Popes of *Rome* laid claim to them anciently; a sort of Tribute, which upon what right it was grounded, the Council of *Basil* will inform us, and by what opinion and resolution of Divines and Lawyers confirmed, *Francis Duarenus* in his Sacred Offices of the Church will instruct us. 'Tis certain, that Chronologers make mention, that at his death the Bishopricks of *Canterbury*, *Winchester* and *Salisbury*, and twelve Monasteries beside, being without Prelates and Abbots, paid in their Revenues to the Exchequer.

Basil. concil. sess. 21. Duaren. de Benef. l. 6. c. 3. Vid. Platin. in Joh. 22. vita.

16. 'He forbad by publick Edict or Proclamation (sayes the same Author) 'that any one should go out of *England* without his leave and 'Passport. We read, that he forbad *Anselm* the Arch-Bishop, that he should not go to wait upon Pope *Urban*; but that he comprehended all Subjects whatsoever in this his Royal order, I confess I have not met with any where in my reading, but in *Polydor*.

17. 'He did so severely forbid hunting of Deer (saith *William of Malmesbury*) 'that it was Felony, and a hanging matter to have taken 'a Stag or Buck.

CHAP. VI.

Henry *the First why called* Beauclerk. *His Letters of Repeal. An Order for the Relief of Lands. What a* **Hereot** *was. Of the Marriage of the Kings Homagers Daughter, &c. Of an Orphans Marriage. Of the Widows Dowry. Of other Homagers the like. Coynage-money remitted. Of the disposal of Estates. The Goods of those that dye Intestate, now and long since, in the Churches Jurisdiction; as also the business of Wills. Of Forfeitures. Of Misdemeanors. Of Forests. Of the* **Fee de Hauberk.** *King* Edward's *Law restored.*

WIlliam, who had by direful Fates been shewn to the World, was followed by his Brother **Henry**, who for his singular Learning, which was to him instead of a Royal Name, was called **Beau-clerk.** He took care of the Common-wealth, by amending and making good what had slipt far aside from the bounds of Justice, and by softning with wholsome remedies those new unheard of, and most grievous injuries, which *Ralph* afterwards Bishop of *Durham* (being Lord Chief Justice of the whole Kingdom) plagued the people with. He sends *Letters of Repeal* to the High Sheriffs, to the intent, that the Citizens and people might enjoy their liberty and free rights again. See here a Copy of them, as they are set down in *Matthew Paris.*

HENRY *by the Grace of God King of* England, *to* Hugh *of* **Bockland**, *High Sheriff, and to all his Liege people, as well* French *as* English *in* Herefordshire, *Greeting. Know ye, that I through the mercy of God, and by the common advice of the Barons of the Kingdom of* England *have been crowned King. And because the Kingdom was oppreſt with unjust exactions, I out of regard to God, and that love which I bear towards you all, do make the holy Church of God free, so that I will neither sell it, nor will I put it to farm, nor upon the death of Arch-Bishop, or Bishop, or Abbot, will I take any thing of the domain of the Church, or of the men thereof, till a Successor enter upon it. And all evil Customs, wherewith the Kingdom of* England *was unjustly oppressed, I do henceforward take away; which evil usages I do here in part set down.*

18. 'If any one of my Barons, Counts or others that hold of me, shall 'dye, his Heir shall not redeem his Land, as he was wont to do in the 'time of my Father, but relieve it with a lawful and due relief. In like 'manner also shall the Homagers or Tenants of my Barons relieve their 'Lands from their Lords with a lawful and just relief. It appears, that 'in the times of the *Saxons* a **Hereot** was paid to the Lord at a Tenants 'death, upon the account of provision for War (for **here** in *Saxon* signifies an Army:) 'and that which in our memory now in *French* 'is called a **Relief** (*Henry of Bracton* sayes, 'tis an engagement to recognize the Lord) 'doth bear a resemblance of the ancient *Hereot.* 'Thereupon it is a guess, saith *William Lambard*, that the *Normans* being 'Conquerours,

Canut. leg. cap. 69. & Ed. Confess. Bracton. lib. 2. cap. 35. Ἐκδικία in Novell. Lev. 13. Hotoman. in verbo Feudal. Releu.

'Conquerors, did remit the *Hereot* to the *Angles* whom they had con-
'quered and stripped of all kind of Armour, and that for it they ex-
'acted money of the poor wretches. To this agrees that which is men-
tioned in the State of *England* concerning the Nobles of *Berkshire*. A
'*Tain* or Knight of the Kings holding of him, did at his death for a
'Relief part with all his Arms to the King, and one Horse with a Saddle
'and another without a Saddle. And if he had Hounds or Hawks, they
'were presented to the King, that if he pleased he might take them. And
'in an ancient Sanction of *Conrade* the First, Emperour of *Germany*, If a
'Souldier that is Tenant or Lessee happen to dye, let his Heir have the
'Fee, so that he observe the use of the greater *Vavasors*, in giving his
'Horses and Arms to the Seniors or Lords. *John Mariana* takes notice,
that the word *Seniors* in the Vular Languages, *Spanish*, *Italian* and
French, signifies *Lords*, and that to have been in use from the time of
Charlemain's Reign. But these things you may have in more plenty from
the *Feudists*, those who write concerning Tenures.

Carol. Sigon. de reg. Ital. lib. 8. V. Hotom. comm. ad 3. lib. Feud. Mariana hist. Hispan. lib. 5. cap. 11.

19. 'If any of my Barons or other men (Homagers or Tenants) of
'mine (I return to King *Henry*'s Charter) shall have a mind to give
'his Daughter, or Sister, or Niece, or Kinswoman in marriage, let him
'speak with me about it. But neither will I take any thing of his for
'this leave and licence, nor will I hinder him from betrothing her, ex-
'cept he shall have a design of giving her to an enemy of mine.

20. 'If upon the death of a Baron, or any other Homager of mine,
'there be left a Daughter that is an Heiress, I will bestow her with the
'advice of my Barons together with her Land.

21. 'If upon the death of the Husband, his Wife be left without Chil-
'dren, she shall have her Dowry and right of Marriage, as long as she
'shall keep her body according to Law; and I will not bestow her, but
'according to her own liking. And if there be Children, either the
'Wife, or some one else near of kin shall be their Guardian and
'Trustee of their Land, who ought to be just.

22. 'I give order, that my Homagers do in like manner regulate
'themselves towards the Sons and Daughters and Wives of their
'Homagers.

23. 'The common Duty of Money or Coinage, which was taken
'through all Cities and Counties, which was not in the time of King
Edward, I do utterly forbid that henceforward this be no more done.

24. 'If any one of my Barons or Homagers shall be sick and weak,
'according as he himself shall give or order any one to give his money,
'I grant it so to be given; but if he himself being prevented either by
'Arms or by Sickness, hath neither given his money, nor disposed of it
'to give, then let his Wife, or Children, or Parents, and his lawful
'Homagers for his souls health divide it, as to them shall seem best.
And in *Canutus* his Laws, 'Let the Lord or Owner at his own discretion
'make a just distribution of what he hath to his Wife and Children and
'the next of kin. But at this time, and long since, Church-men have
been as it were the Distributors and Awarders of the Goods of such per-
sons

Canut. cap. 68

sons as dye Intestate, or without making their Wills, and every Bishop as Ordinary in his own Diocess, is the chief Judge in these cases.

2 Rich. 3. tit. Testament. 4. *John Stratford* Arch-Bishop of *Canterbury* saith it, and it is averred in the Records of our Law, that this Jurisdiction also concerning Wills, was of old long time ago in an ancient Constitution, intrusted to the Church by the consent of the King and Peers. However, in what Kings time this was done, neither does he relate, nor do I any where find, as *William Lindwood* in his Provincial acknowledgeth. It is a thing very well known, that after Tryal of right, *Wills* were wont to be opened in the Ecclesiastical Court even in the Reign of *Henry* the Second (*Ralph Glanvill* is my witness) contrary to what order was taken in the Imperial Decrees of the *Romans*. And peradventure it will appear so to have been before *Glanvill*, as he will tell you, if you go to him; although you have, quoted by my self some where, a Royal Rescript or Order to a High Sheriff, 'That he do justly and without delay cause to 'stand (*i. e.* appoint and confirm) a reasonable share to such an one; that is, that the Legatee may obtain and enjoy his right, what was bequested to him by the Sheriffs help. I come back now to my track again.

Lind provin. constit. de testam. c. Statutum & de immun. Eccles. c. Accidit, verb. Abolim. Glanvil. l. 7. c. 8. C. de testam. l. Consulta divalia.

25. 'If any one of my Barons or Homagers shall make a forfeit, he shall 'not give a pawn in the scarcity of his money, as he did in the time of 'my Brother or my Father, but according to the quality of his forfei-'ture; nor shall he make amends, as he would have done heretofore in 'my Brothers or Fathers time.

26. 'If he shall be convicted of perfidiousness or of foul misdemea-'nors, as his fault shall be, so let him make amends.

27. 'The Forests by the common advice of my Barons, I have kept 'in mine own hand, in the same manner as my Father had them.

28. 'To those Souldiers or Knights who hold and maintain their 'Lands by Coats of Male (that is, **per fee de Hauberke**, that they may 'be ready to attend their Lords with Habergeons or Coats of Male com-'pleatly armed *Cap a pee*) I grant the Plough-lands of their Domains ac-'quitted from all Gelds, and from every proper Gift of mine, that, as 'they are eased from so great a Charge and Grievance, so they may 'furnish themselves well with Horse and Arms, that they may be fit 'and ready for my service, and for the defence of my Realm.

Hotom. Feud. Haubertic. in Diction.

29. 'I restore unto you the Law of King *Edward*, with other amend-'ments, wherewith my Father amended it. Those amendments are put forth by *Lambard*. Hitherto out of those Royal and general Letters, directed to all the Subjects.

CHAP.

CHAP. VII.

His order for restraint of his Courtiers. What the punishment of Theft. Coyners to lose their Hands and Privy-members. Guelding a kind of death. What Half-pence and Farthings to pass. The right measure of the Eln. The Kings price set for provisions.

30. 'HE did by his Edict or Proclamation, restrain the Rapines, 'Thefts, and Rogueries of the Courtiers; ordering, that 'those who were caught in such pranks, should have their Eyes with 'their Stones pulled out. This *Malmesbury* supplies us with. But *Florentius of Worcester* and *Roger Hoveden* give the account, that he punished Thieves with Death and Hanging, otherwise than that pleasant and curious man *Thomas Moor* in his *Utopia* would have his people to be dealt with. Yet I am inclined rather to believe *Malmesbury*; not only upon the authority of the man, in comparison of whose Rose-beds (if you well weigh the Learning of that Age) the other pack of Writers are but sorry low shrubs; but also upon the account of a nameless Monk, who in his Book of the Miracles of S. *Thomas of Canterbury*, tells us a story of one *Eilward*, a poor mean fellow of Kingsweston in *Berkshire*, who being in the Reign of King *Henry* the Second condemned of Theft (he had it seems stoln a pair of Countrey Gloves and a Whetstone) was punished by losing his Eyes and Privities; who coming with devotion to S. *Thomas* his Tomb, got an intire restitution of his disappearing Members and Faculties, and was as good a man as ever he was. Perchance in this he is no witness of infallible credit. Let the story of *Iphis* and *Ianthis*, and that of *Ceneus* try Masteries with this for the Whetstone; to our purpose the Writer is trusty enough. But in the first times of the *Normans*, I perceive, that the Halter was the ill consequence of Theft. 'Let it be lawful for the Abbot of that Church, if he chance "to come in in the God-speed, to acquit an High-way-man or Thief 'from the Gallows. They are the words of the *Patent* with which *William* the Conquerour, to expiate the slaughter of *Harald*, consecrated a Monastery to S. *Martin* near Hastings on the Sea-coast of *Sussex*, and priviledged it with choice and singular rights.

Morus in Utopiâ, l. 2.

De mirac. Thom. ap. Fox hist. eccles. lib. 4.

31. 'Against Cheats, whom they commonly call Coyners ('tis *Malmesbury* speaks again) 'he shewed his particular diligence, permit-'ting no cheating fellow to escape scot-free, without losing his Fist or 'Hand, who had been understood to have put tricks upon silly people 'with the traffick of their falshood. For all that, he who hath tackt a supplement to *Florentius of Worcester*, and *William Gemeticensis* give out, that the Counterfeiters and Imbasers of Coin had, over and above those parts cut off, which *Galen* accounts to be the principal instruments for propagating of the kind. To whom *Hoveden* agrees, who writes in the Life of *Henry* the First, 'That Coyners by the Kings order being taken, 'had their right Hands and their Privy-members cut off. Upon this account sure, that he that was guilty of such a wicked crime, should have no hope left him of posterity, nor the Common-wealth be in any further

Guli. Gemetic. de ducib. Norm. lib. 7. cap. 23.

further fear of those who draw villainous principles from the loins of those that beget them.

Now at this very time and in former Ages too, this piece of Treason was punished with Halter and Gallows; and that also of *Theft* not only in *England*, but almost in all Countreys, especially *Robbery* upon the High-way, which is committed by those who lay wait to surprize Passengers as they travel along upon one or other side of them; whence not only in the *Latin*, but in the holy Language also, a *High-way-man* hath his name. And truly among the Ancients *guelding* was lookt upon as a kind of death. The *Apostles Canons* give him the character and censure of a Manslayer, who cuts off his own Privities (who lives all his life a Batchelor, say the *Talmudists*) and he who cuts off another mans, is in danger of the *Cornelian* Law concerning Murderers and Cutthroats; and so was it heretofore among the *English*.

Fest. Latro. Heb. ציר latro à צד latus. Bodin. de rep. l. 6. c. 6. Dist. 55. c. 4. ff. Ad leg. Corn. de Sicar. l. 4. §. ult. Bract. lib. 3. tract. 2. c. 23. & Stamf. plac. Coron. l. 1. c. 38.

32. 'He ordered (they are *Hoveden*'s words) that no half-penny, 'which also he commanded should be made round, or farthing also, if it 'were intire, should be refused.

33. 'He corrected the Merchants false Eln (so sayes the Monk of *Malmesbury*) 'applying the measure of his Arm, and proposing that to 'all people over *England*.

34. 'He gave order to the Courtiers, in whatsoever Cities or Vil-'lages he were, how much they were to take of the Countrey people '*gratis*, and at what price to buy things; punishing offendors herein ei-'ther with a great Fine of money, or with loss of life.

CHAP.

CHAP. VIII.

The Regality claimed by the Pope, but within a while resumed by the King. The **Coverfeu** *dispensed with. A Subsidy for marrying the Kings Daughter. The* Courtesie of England. *Concerning Shipwrack. A Tax levied to raise and carry on a War.*

35. "A*Nselm* Arch-Bishop of *Canterbury* labours earnestly with the "Pope and his party, and at length obtains it with much ado, that 'from that time forward (you have it in *Florilegus* after other Writers) 'never any one should be invested with a Pastoral Staff or a Ring into a 'Bishoprick or Abbacy by the King, or any Lay-person whatsoever in '*England*, (added out of *Malmesbury*) retaining however the priviledge 'of Election and Regality. There was a sharp bickering about this business betwixt the King and *Anselm*; and so between the Popes *Paschalis* and *Calixtus* and *Henry* about that time Emperour. Both of them at least pretendedly quit their right; our King humouring the Scene according to the present occasion. 'For after *Anselm*'s death, he did 'invest *Rodulphus* that came in his room by a Ring and a Pastoral 'Staff.

36. He restored the Night-Torches or Lights which *William* the First had forbidden; forasmuch as he now had less reason to apprehend any danger from them, the Kingdom being in a better and firmer posture. Stow, & v. Malmesb. l. 5. de gest. reg. fol. 88.

37. To make up a portion for *Mawd* the Kings Daughter, married to *Henry* the Emperour, every *Hide* of Land paid a Tribute of Three Shillings. Here *Polydore* makes his descant. 'Afterward, sayes he, 'The rest of the Kings followed that course of raising Portions for the 'bestowal of their Daughters; so tenacious hath posterity alway been 'of their own advantages. It is scarce to be doubted, that the right of raising money for the marrying of the Lords Daughters by way of **Aid** or Subsidy upon the Tenants or Dependants, is of a more ancient original. Neither would I fetch it from the mutual engagement of *Romulus* his Patrons and Clients, or Landlords and Tenants, or from *Suetonius* his *Caligula*: rather from the old Customs of the *Normans*, more ancient than King *Henry*; where that threefold Tribute is explained by the name of **Aid**, which the Patent granted by King *John* in favour of publick liberty mentions in these words: 'I will impose no Escuage or Aid 'in our Realm, but by the common advice of our Realm; unless it be to 'ransom our Body, and to make our first-born Son a Soldier or Knight, 'and to marry our eldest Daughter once.

38. Some ascribe that Law to *Henry*, which Lawyers call the *Courtesie of England*; whereby a man having had a Child by his Wife, when she dyes, enjoyes her Estate for his life. Spec. Just. cap. des articles, &c.

39. He made a Law, that poor shipwrackt persons should have their Goods restored to them, if there were any living creature on Ship-board, that escaped drowning. Forasmuch as before that time, whatsoever through the misfortune of shipwrack was cast on Shoar, was adjudged to the *Exchequer*; except that the persons who suffered shipwrack and had escaped alive, did themselves within such a time refit and repair the Vessel. So the Chronicle of the Monastery of S. *Martin de Bello*. This right is called Wreck, or if you will, Wareck, of the Sea. How agreeable to the Law of Nations, I trouble not my self to enquire. That more ancient Custom, is as it were suitable to the *Norman* usage. Now at this time our Lawyers (and that the more modern Law of *Edward* the First) pass judgement according to the more correct Copy of King *Henry*. And they reckon it too among the most ancient Customs of the Kingdom. Did therefore King *Richard* order, or did *Hoveden* relate this to no purpose, or without any need? 'If one who suffers shipwrack 'dye in the Ship, let his Sons or Daughters, his Brethren or Sisters have 'what he left, according as they can shew and make out that they are 'his next heirs. Or if the deceased have neither Sons nor Daughters, 'nor Brothers nor Sisters, the King is to have his Chattels. Can one imagine, that this Law he made at *Messina*, when he was engaged in War, was calculated only for that time or place? Certainly in the Archives there is elsewhere to be met with as much as this.

Lamb. Itinerar. Cant. West. 1. c. 4.

Pat. 46 Ed. 3.

40. That he might with a stout Army bear the brunt of *Baldwin* Earl of *Flanders* and *Louis* King of *France*, who had conspired, being bound by mutual Oaths to one another with the Duke of *Anjou*, to take away from King *Henry* by force of Arms the Dutchy of *Normandy*, 'he first of all (tis *Polydore* avers it) 'laid a heavy Tax upon the people, to carry on 'the new War; which thing with the Kings that followed after, grew 'to be a custom.

He was the last of the *Normans* of a Male descent, and as to the method of our undertaking, here we treat of him last.

CHAP.

CHAP. IX.

In King Stephen's *Reign all was to pieces. Abundance of Castles built. Of the priviledge of Coining. Appeals to the Court of* Rome *now set on foot. The* Roman *Laws brought in, but disowned. An instance in the* Wonder-working Parliament.

AS of old, unless the Shields were laid up, there was no Dancing at Weddings; so except Arms be put aside, there is no pleading of Laws. That Antipathy betwixt Arms and Laws, *England* was all over sensible of, if ever at any time, in the Reign of K. *STEPHEN*, Count of *Blois*, King *Henry*'s Nephew by his Sister *Adela*. For he did not only break the Law and his Oath too to get a Kingdom, but also being saluted King, by those who perfidiously opposed *Maud* the right and true heir of King *Henry*, he reigned with an improved wickedness. 'For he 'did so strangely and odly chop and change every thing (it is *Malmsbury* speaks it) 'as if he had sworn only for this intent, that he might 'shew himself to the whole Kingdom, a Dodger and Shammer of his 'Oath. But, as he saith,

——perjuros merito perjuria fallunt? Ovid. Art. Am. lib. 1.

that is,

Such men as Perjuries do make their Trade,
By their own Perjuries most justly are betray'd.

They are things of custom to which he swore, and such as whereby former priviledges are ratified, rather than new ones granted. However, some things there are, that may be worth the transcribing.

41. 'Castles were frequently raised ('tis *Nubrigensis* relates it) in 'the several Counties by the bandying of parties; and there were in *En*-'*gland* in a manner as many Kings, or rather as many Tyrants, as Lords 'of Castles, having severally the stamping of their own Coin, and a 'power of giving Law to the Subjects after a Royal manner. Then was the Kingdom plainly torn to pieces, and the right of Majesty shattered, which gains to it self not the least lustre from stamping of Money. Though I know very well, that before the *Normans*, in the City of *Rochester*, *Canterbury*, and in other Corporations and Towns, Abbots and Bishops had by right of priviledge their Stampers and Coiners of Money. V. Leg. Athelstan. 14.

42. Next to the King, *Theobald* Arch-Bishop of *Canterbury* presided over the Council of *London* (where there were also present the Peers of the Realm) 'which buzzed with new appeals. For in *England* (tis *Henry of Huntington* sayes it) 'appeals were not in use, till *Henry* 'Bishop of *Winchester*, when he was Legate, cruelly intruded them to 'his own mischief. Wherefore what Cardinal *Bellarmin* has writ, beginning Bellarm. l. 2. de Rom. Pontif. c. 21.

ginning at the Synod of *Sardis*, concerning the no body knows how old time of the universal right of appealing to the Pope of *Rome*, does not at all, as to matter of fact, seem to touch upon this Kingdom of ours by many and many a fair mile.

Polycrat. l. 8. c. 22.

43. 'In the time of King *Stephen* (so 'tis in the *Polycraticon* of *John of Salisbury*) 'the *Roman* Laws were banisht the Realm, which the House 'of the Right Reverend *Theobald* Lord Primate of *Britanny* had fetcht or 'sent for over into *Britanny*. Besides, it was forbidden by Royal Pro-'clamation, that no one should retain or keep by him the Books. If you understand the Laws of the Empire (I rather take them to be the Decrees of the Popes) it will not be much amiss, out of the Parliament Records to adjoyn these things of later date. In the Parliament holden by *Richard* of *Bourdeaux*, which is said to have *wrought Wonders*, Upon the Impeachment of *Alexander* **Nevil** Arch-Bishop of *Canterbury*, *Robert* **Vere** Duke of *Ireland*, *Michael* **Pole** Earl of *Suffolk*, *Thomas* Duke of *Glocester*, *Richard* Earl of *Arundel*, *Thomas* **Beauchamp** Earl of *Warwick*, and others, That they being intrusted with the management of the Kingdom, by soothing up the easie and youthful temper of the King, did assist one another for their own private interest, more than the publick, well near to the ruine and overthrow of the Government it self; the Common Lawyers and Civilians are consulted with, about the form of drawing up the Charge; which they answer all as one man, was not agreeable to the rule of the Laws. But the Barons of Parliament reply, That they would be tyed up to no rules, nor be led by the punctilioes of the *Roman* Law, but would by their own authority pass judgement; *pur ce que la royalme d' Angleterre n' estoit devant ces heures, n'y à l' entent de nostre dit Seigneur le Roy & Seigneurs de Parlament unque ne serra rules ne gouvernes per la Loy Civil:* that is, *inasmuch as the Realm of* England *was not before this time, nor in the intention of our said Lord the King and the Lords of Parliament ever shall be ruled or governed by the Civil Law.* And hereupon the persons impleaded are sentenced to be banished.

Rot. Parl. 11 Rich. 2.

But here is an end of *Stephen*: He fairly dyed.

CHAP.

CHAP. X.

In King Henry *the Seconds time, the Castles demolished. A Parliament held at* Clarendon. *Of the Advowson and Presentation of Churches. Estates not to be given to Monasteries without the Kings leave. Clergymen to answer in the Kings Court. A Clergyman convict, out of the Churches Protection. None to go out of the Realm, without the Kings leave. This Repealed by King* John. *Excommunicate Persons to find Surety. Laymen how to be impleaded in the Ecclesiastical Court. A Lay-Jury to swear there, in what case. No Homager or Officer of the Kings to be Excommunicated, till He or his Justice be acquainted.*

AT length, though late first, *Henry* the Son of *Jeoffry Plantagenet*, Count of *Angers* by the Empress *Maud*, came to his Grandfatherrs Inheritance. Having demolished and levelled to the ground, the Castles which had, in King *Stephen*'s time, been built, to the number of eleven hundred and fifteen; and having retrieved the right of Majesty into its due bounds, he confirmed the Laws of his Grandfather. 'Moreover, at *Clarendon* in *Wiltshire*, near *Salisbury*, *John* of *Oxford* being 'President, by the Kings own Mandate, there being also present the 'Arch-Bishops, Bishops, Abbots, Priors, Earls, Barons, and Peers of 'the Realm, other Laws are recognized and passed; whilst at first those who were for the *King* on one side, those who were for the *Pope* on the other, with might and main stickle to have it go their way; these latter pleading, that the secular Court of Justice did not at all suit with them, upon pretence that they had a priviledge of Immunity. But this would not serve their turn; for such kind of Constitutions as we are now setting down, had the Vogue.

44. 'If any Controversie concerning the Advowson and Presenta-'tion of Churches, arise betwixt Laymen, or betwixt Laymen and Cler-'gymen, or betwixt Clergymen among themselves; let it be handled 'and determined in the Court of the Lord our King.

45. 'The Churches which are in the Kings Fee, cannot be given to 'perpetuity without his assent and concession. Even in the *Saxons* times it seems it was not lawful, without the Kings favour first obtained, to give away Estates to Monasteries; for so the old Book of *Abington* says. 'A Servant of King *Ethelred*'s called *Ulfric Spot*, built the Abby of Bur-'ton in *Staffordshire*, and gave to it all his Paternal Estate, appraised at 'seven hundred pounds; and that this donation might be good in Law, 'he gave King *Ethelred* three hundred Marks of Gold for his confirmati-'on of it, and to every Bishop five Marks, and over and above to *Alfric* 'Arch-Bishop of *Canterbury*, the Village of *Dumbleton*.

Camden.

A. 1004.

46. 'Clergymen being arighted and accused of any matter whatso-'ever, having been summoned by the Kings Justice, let them come into 'his Court, there to make answer to that, of which it shall be thought 'fit

'fit that there answer ought to be made: So that the Kings Justice send 'into the Court of Holy Church, to see after what manner the business 'there shall be handled.

47. 'If a Clergyman shall be convicted, or shall confess the Fact; the 'Church ought not from thenceforth to give him protection.

48. 'It is not lawful for Arch-Bishops, Bishops, and Persons of the 'Kingdom, to go out of the Realm without leave of our Lord the King: 'And if they do go out, if the King please, they shall give him security, 'that neither in going, nor in returning, or in making stay, they seek 'or devise any mischief or damage against our Lord the King. Whether you refer that Writ, we meet with in the Register or Record, *NE EXEAS REGNUM*, for Subjects not to depart the Kingdom to this time or instance, or with *Polydore Virgil* to *William Rufus*, or to later times, is no very great matter: Nor will it be worth our while, curiously to handle that question: For who, in things of such uncertainty, is able to fetch out the truth? Nor will I abuse my leasure, or spend time about things unapproachable.

Metamor. li. 10. *An sit & hic dubito, sed & hic tamen auguror esse.*

Says the Poet in another case: And so say I.

Whether it be here or no,
Is a Question, I confess:
And yet for all that, I trow,
Here it is too, as I guess.

Out of King *John*'s great Charter, as they call it, you may also compare or make up this Repeal of that Law in part. 'Let it be lawful hence-'forward for any one to go out of our Realm, and to return safely and 'securely by Land and by Water, upon our Royal word; unless in time 'of War, for some short time, for the common advantage of the King-'dom; excepting those that are imprisoned and out-lawed according to 'the Law of the Kingdom, and any People or Nation, that are in actual 'War against us: And Merchants, concerning whom let such Order be 'taken, as is afore directed. I return to King *Henry*.

49. 'Excommunicate Persons ought not to give suretiship for the Re-'mainder, nor to take an Oath; but only to find Surety and Pledge, 'to stand to the Judgment of the Church, that they may be ab-'solved.

50. 'Persons of the Laity ought not to be accused or impleaded but 'by certain and legal Accusers and Witnesses, in the presence of the Arch-'Bishop or Bishop; so that the Arch-Deacon may not lose his right, nor 'any thing which he ought to have therefrom.

51. 'If

51. 'If they be ſuch Perſons who are in fault, as no one will or dare 'to accuſe; let the Sheriff being thereunto required by him, cauſe twelve 'legal men of the Voiſinage or of the Village, to ſwear before the Bi-'ſhop, that they will manifeſt or make known the truth of the matter 'according to their Conſcience.

52. 'Let no one who holds of the King in *capite*, nor any one of the 'Kings Officers or Servants of his Domain, be excommunicated; nor 'the Lands of any of them be put under an Interdict or prohibition; un-'leſs firſt our Lord the King, if he be in the Land, be ſpoke with; or his 'Juſtice, if he be out of the Land, that they may do right by him: And 'ſo that what ſhall appertain to the Kings Court, may be determined 'there; and as to what ſhall belong to the Eccleſiaſtical Court, it may 'be ſent thither and there treated of.

CHAP.

CHAP. XI.

Other Laws of Church affairs. Concerning Appeals. A Suit betwixt a Clergyman and a Layman, where to be Tryed. In what case one, who relates to the King, may be put under an Interdict. The difference betwixt that and Excommunication. Bishops to be present at Tryals of Criminals, until Sentence of Death, &c. pass. Profits of vacant Bishopricks, &c. belong to the King. The next Bishop to be Chosen in the Kings Chappel, and to do Homage before Consecration. Deforcements to the Bishop, to be righted by the King. And on the contrary, Chattels forfeit to the King, not to be detained by the Church. Pleas of debts whatsoever in the Kings Court. Yeomens Sons not to go into Orders without the Lords leave.

V. Rog. Hoveden. fol. 303.

53. 'Concerning Appeals, if at any time there shall be occasion for them, they are to proceed from the Arch-Deacon to the Bishop, and from the Bishop to the Arch-Bishop; and if the Arch-Bishop 'shall be wanting in doing of Justice, they must come in the last place 'to our Lord the King; that by his precept or order, the Controversie 'may be determined in the Arch-Bishops Court, so as that it ought 'not to proceed any further without the Kings assent. This Law, long since, the famous Sir *Edward Coke* made use of, to assert and maintain the Kings Ecclesiastical Jurisdiction, as a thing not of late taken up by him, but anciently to him belonging.

Coke præfat. ad Lib. 6.

54. 'If a Claim or Suit shall arise betwixt a Clergyman and a Layman, or betwixt a Layman and a Clergyman, concerning any Tenement which the Clergyman would draw to the Church, and the Layman to a Lay-fee; it shall by the recognizance of twelve legal men, 'upon the consideration and advisement of the Lord Chief Justice, be determined, whether the Tenement do appertain to Alms (*i. e.* to the 'Church) or to Lay-Estate, before the Kings own Justice. And if it 'shall be recognized or adjudged to appertain to Alms; it shall be a Plea 'in the Ecclesiastical Court: But if to a Lay fee, unless they both avow 'or avouch the Tenement from the same Bishop or Baron, it shall be a 'Plea in the Kings Court. But if each of them shall for that fee avouch 'the same Bishop or Baron, it shall be a Plea in that Bishops or Barons 'Court; so that he who was formerly seised, shall not, by reason of the 'Recognizance made, lose the Seisin, till it shall by Plea be deraigned.

55. 'He who shall be of a City, or a Castle, or a Burrough, or a 'Manner of the Kings Domain, if he shall be cited by an Arch-Deacon 'or a Bishop, upon any misdemeanour, upon which he ought to make 'answer to him, and refuse to satisfie upon their summons or citations; 'they may well and lawfully put him under an Interdict or Prohibition; 'but he ought not to be Excommunicated. (By the way) seasonably remark out of the Pontificial Law, that that *Excommunication*, they call the

the greater, removes a man and turns him out from the very Communion and Fellowship of the Faithful; and that an *Interdict*, as the lesser Excommunication, separates a man, and lays him aside only, forbidding him to be present at Divine Offices, and the use of the Sacraments.) 'I say he ought not to be Excommunicated, before that the Kings Chief 'Justice of that Village or City be spoken with, that he may order him 'to come to satisfaction: And if the Kings Justice fail therein, he shall 'be at the Kings mercy, and thereupon or after that the Bishop may pu-'nish him upon his impleadment, with the Justice of the Church.

56. 'Arch-Bishops, Bishops, and all Persons whatsoever of the King-'dom, who hold of the King *in capite*, and have their possessions from 'our Lord the King in nature of a Barony, and thereupon make answer 'to the Kings Justices and Officers, and perform all Rights and Customs 'due to the King as other Barons do; they ought to be present at the 'Tryals of the Court of our Lord the King with his Barons, until the 'losing of Limbs or death, be adjudged to the party tried.

57. 'When an Arch-Bishoprick or Bishoprick, or Abbacy, or Priory 'of the Kings Domain shall be void; it ought to be in his hand, and 'thereof shall he receive all the profits and issues as belonging to his Do-'main: And when the Church is to be provided for, our Lord the King 'is to order some choice persons of the Church, and the Election is to be 'made in the Kings own Chappel, by the assent of our Lord the King, 'and by the advice of those persons of the Kingdom, whom he shall call 'for that purpose; and there shall the Person Elect (saving his order) 'before he be Consecrated, do Homage and Fealty to our Lord the King, 'as to his Liege Lord, for his life and limbs, and for his Earthly Ho-'nour.

58. 'If any one of the Nobles or Peers do deforce to do Justice to an 'Arch-Bishop, Bishop, or Arch-Deacon, for themselves or those that 'belong to them; the King in this case is to do justice.

59. 'If peradventure any one shall deforce to the Lord the King his 'Right; the Arch-Bishop, Bishop, and Arch-Deacon, ought then in that 'case to do justice (or to take a course with him) that he may give the 'King satisfaction.

60. 'The Chattels of those who are in the Kings forfeit, let not the 'Church or Church-yard detain or keep back against the justice of the 'King; because they are the Kings own, whether they shall be found in 'Churches or without.

61. 'Pleas of debts which are owing, either with security given, or 'without giving security, let them be in the Kings Court.

62. 'The Sons of Yeomen or Country people, ought not to be ordain-'ed or go into holy Orders, without the assent of the Lord, of whose 'Land they are known to have been born.

CHAP. XII.

The Statutes of Clarendon *mis-reported in* Matthew Paris, *amended in* Quadrilegus. *These Laws occasioned a Quarrel between the King and* Thomas a Becket. *Witness* Robert *of* Glocester, *whom he calls* **Yumen.** *The same as* Rusticks, *i. e.* Villains. *Why a Bishop of* Dublin *called* **Scorch-Villein.** *Villanage before the* Normans *time.*

I Confess there is a great difference between these Laws and the Statutes of *Clarendon*, put forth in the larger History of *Matthew Paris*, I mean those mangled ones; and in some places, what through great gaps of sence, disjointings of Sentences, and misplacings of words, much depraved ones, whose misfortune I ascribe to the carelesness of Transcribers. But the latter end of a Manuscript Book commonly called *Quadrilegus*, (wherein the Life of *Thomas*, Arch Bishop of *Canterbury*, is out of four Writers, to wit, *Hubert* of Bosham, *John* of *Salisbury*, *William* of *Canterbury*, and *Alan*, Abbot of *Tewksbury*, digested into one Volume) hath holp us to them amended as you may see here, and set to rights. It is none of our business to touch upon those quarrels, which arose upon the account of these Laws betwixt the King and *Thomas* of *Canterbury*: Our Historians do sufficiently declare them. In the mean time, may our Poet of *Glocester* have leave to return upon the Stage, and may his Verses written in ancient Dialect, comprising the matter which we have in hand, be favourably entertained.

No man ne might thenche the love that there was
Bitwene the K. H. and the good man S. Thomas;
The diuel had enuí therto, and sed bitwen them feu,
Alas, alas thulke stond, for all to well it greu.
For there had ere ibe kings of Luther dede
As W. Bastard, and his son W. the rede.
That Luther Laws made inou, and held in al the lond
The K. nold not beleue the lawes that he fond,
Ne that his elderne hulde, ne the godeman S. Thomas
Thought that thing age right neuer law nas.
Ne sothnes and custom mid strength up ihold,
And he wist that bre dere Lourd in the Gospel told
That he himselfe was sothnes, and custum nought,
Theruore Luther custumes he nould graent nought.
Ne the K. nould bileue that is elderne ad ihold,
So that conteke sprung bituene them manifold.
The K. drou to right law mani Luther custume,
S. Thomas they withsed, and granted some.
The Lawes that icholle now tell be granted bawe.
Zif a yuman hath a sone to clergi idraw
He ne sall without is lourdes icrouned nought be
For yuman ne mai nought be made agen is lourds will free.

Those

Those that are born Slaves, or that other sort of servants termed *Villains*, he calls by the name of **Lumen.** We call free-born Commoners, alike as Servants, as it were with a badg of ignobleness or ungentility, **Yeomen**; and those who of that number are married men, **Gommen**; for it was **Gomman** in the old *Dutch*, not **Goodman**, as we vulgarly pronounce it, which signified a married man. Words, as I am verily perswaded, made from the Latin, *Homines*; which very word, by *Ennius* and *Festus*, according to the *Oscan* Idiom, is written *Hemones*, and in our Language, which comes pretty near that spelling of the Poet, **Yeomen.** And the *Etymon* or Origination of the word it self, is very much confirmed by the opinion of some of our own Country Lawyers, who take (but with a mistake) *Homines*, *i. e.* men that do homage, and *Nativos*, *i. e.* born Slaves, in ancient Pleas to be terms equipollent, and of the same importance. The Constitution of *Clarendon* style those *Rusticks* or Countrymen, whom he calls **Lumen**; and *Rusticks* and *Villains* (those among the *English* were slaves or servants) were anciently synonymous words, meaning the same thing. For whereas *Henry Londres*, Arch Bishop of *Dublin*, had treacherously committed to the flames, the Charters of his Rustick Tenants, the Free Tenants called him, as we read in the Annals of *Ireland*, **Storch-Villein**; as if one would say, the burner or firer of Villains.

40 Assis. pl 24. & 32. Ed. 3. tit. Barr. 261.

Annal. Hiber. 1213. sub Henr. 3.

Nor should I think it unseasonable in this place, to take notice of a mistake or oversight of *Thomas Spott*, a Monk of *Canterbury*; who writes, that the *English*, before the *Norman* Conquest, knew nothing of private servitude or bondage; *i. e.* had no such thing as Villanage among them: For he is convinced both by the Maid of *Andover*, King *Edgar*'s Miss, as also by the Laws signed and sealed by King *Ina*, and by that Donation or Grant *Torald* of *Bukinhale* made to *Walgate*, Abbot of *Crowland*; wherein among other things a great many servants are mentioned, with their whole suits and services. Take it also out of the Synod of *London*, *Anselme* being President of it (since here belike there is mention made of Servants) *That no one henceforward presume to use that ungodly practice, which hitherto they were wont in* England *to do, to sell, or put to sale, men*, (that is, *Servants) like brute Beasts.*

Malmsb. l. 2. de gest. reg. c. 8. & Ingulph. fol. 519.

Malmsb. l. 1. de gest. Pont.

But we do not do civilly to interrupt the Poet: We must begin again with him; he once more tunes his Pipes.

Another thing he granted eke as ye mow nobise;
Yuf a man of holi Chirch hath eni lay fee,
Parson, other what he be, he sal do therebore
Kings service that there halth, that is right ne be borlore,
In plaiding and in assise be and in judgement also.
Bote war man sal be bilemed, other to deth do.
He granted eke yuf eni man the Kings traitor were,
And eni man is chateux to holi chirch here
That holi chirch ne solde nought the chateux there let
That the K. there other is as is owne is ne wette.
Nor all that the felon hath the Kings it is
And eche man mai in holi church is owne take iwis.
He granted eke that a chirche of the Kings fe
In none stede ene and ever ne stold igiue be

As to hous of religion, without the Kings leve,
And that he other the patron the gift first gave.
S. Thomas granted well these and other mo
And these other he withsede that did him well woe.

I. Yuf bituene twei leud men were eni striding,
Other bituene a leud and a clerc, for holi chirch thing
As for foulon of chirch whether shold the chirch giue,
The K. wold that in his court the ple shold be driue;
Yor as much as a leud man that the o parti was
Chanliche was under the K. & under no bishop nas.

CHAP.

CHAP. XIII.

The Poet gives account which of those Laws were granted by Thomas a Becket, *which withstood.* **Leudemen** *signifies Laymen, and more generally all illiterate Persons.*

THat which this Author of ours calls **Leudemen**, the Interpreters of Law, both our Common and the Canon Law call *Laicks*, or *Laymen*. For as λαὸς, *i. e.* people, as it it is derived by *Cæsar Germanicus*, upon *Aratus* his *Phænomena* after *Pindar*, ἀπὸ τῆς λάας, *i. e.* from a *Stone*, denotes a hard and promiscuous kind of men; so the word *Leudes* imports the illiterate herd, the multitude or rabble, and all those who are not taken into holy Orders. *Justus Lipsius* in his *Poliorceticks*, discourses this at large; where he searches out the origination of *Leodium* or *Liege*, the chief City of the *Eburones* in the *Netherlands*. As to what concerns our language, *John Gower* and *Jeoffry Chaucer*, who were the Reformers and Improvers of the same in Verse, do both make it good. Thus *Jeoffry*.

Cæs. Germ. ad Arat. in Aquario.
Pindar. Olym. 9.
Lipsi. Poliorcet. lib. 1. dissert. 2.
Chauc. in Prolog. of the Sumners tale.

> No wonder is a leude man to rust
> If a Priest be foule on whom we trust.

However, that it signifies an illiterate or unlearned person, as well as one not yet in orders; what he saith elsewhere, informs us.

> This every leud Vicar and Parson can say.

And *Peter* of *Blois*, and others, use this expression; *as well Laymen as Scholars*. But let not *Chaucer* take it ill, that here he must give way to our *Glocester* Muse.

Pet. Blesens. app. ad Ingulph.

> II. Another was that no clerc, ne bishop nath mo,
> Ne sholde without Kings leue out of the lond go.
> And that hii sholde suere up the boke pwis.
> That hii ne sold purchas no ubel the K. ne none of is.
>
> III. The thrid was put eni man in mausing were I brought,
> And suth come to amendment, ne age were nought
> That he ne suore bp the boc, ac borowes find solde
> To stand to that holy Chirch there of him toky wold.
>
> IV. The berth was that no man that of the K. huld ought
> In cheise or in eni serbise in mausing were ibrought,
> Bote the wardeins of holy chirch that brought him thereto,
> The K. sede or is bailifes wat he ad misdo,
> And loked berst were thei to amendment it bring,
> And bote hii wolde by their leue do the mausing.
>
> V. The bist was, that bishoprikes and Abbeis also
> That bacans were of prelas in the K. hand were ido,

And

And that the K. sold all the land as is owne take,
Ior at last that him lust eni prelat there make.
And than thulke prelat sould in is chapel ichose be.
Of is clarks which he wuld to such prelace bise.
And than wan he were ichose in is chapel right yere,
Homage he solde him do ar he confirmed were.

VI. The sixt was yuf eni plaintiffe were idraw,
And eni man made is appele, yuf me dude him unlaw,
That to the Bishop from Ercedeken is appele sold make,
And from Bishop to Arcebishop and suth none other take,
And but the Ercebisops court to right him wold bring,
That he sold from him be clutbe biuore the King.
And from the K. non other mo so that attan end
Plaining of holi chirch to the K. shold wend.
And the K. amend solde the Ercebisops dede,
And be as in the Popes stude, and S. Thomas it withlede.

VII. The seuethe was that plaiding that of det were
To yeld wel thoru truth iplight, and nought thold nere
Althei thoru truth it were, that ple sold be ibrought
Biuore the K. and is bailies and to holy chirch nought.

VIII. The eighth that in the lond citation none nere
Thoru bull of the Pope of Rome, and clene bileued were.

IX. The nithe was that Peters pence that me gadereth manion
The Pope nere nought on isend, at the K. ethone.

X. The tethe was yuf eni Clarke as felon were itake,
And bor felon iproved and ne might it not forlake,
That me sold him verst disordein and suth thoru there law,
And thoru judgement of the land bong him other to draw.
Ior these and bor other mo the Godeman S. Thomas
Fleu verst out of England and eke imartred was,
Ior he sei there nas bote o way other he must stiffe be
Other holy chirch was isent, that of right was so fre.

CHAP.

CHAP. XIV.

The Pope absolves Thoms a Becket *from his Oath, and damns the Laws of* Clarendon. *The King resents it, writes to his Sheriffs, Orders a Seisure. Penalties inflicted on Kindred. He provides against an Interdict from* Rome. *He summons the Bishops of* London *and* Norwich. *An Account of* Peter *Pence.*

TO the Laws of *Clarendon*, which I spoke of, the States of the Kingdom (the *Baronage*) and with them the Arch-Bishop of *Canterbury*, took their Oaths in solemn manner, calling upon God. There were Embassadors sent to Pope *Alexander* the third, that there might be that bottom also, that he would further confirm and ratifie them. But he was so far from doing that, that he did not only pretend that they did too much derogate from the priviledge of the Clergy, and wholly refuse to give his assent to them; but also having absolved *Thomas* the Arch-Bishop, at his own request, from the obligation of that Oath he had bound himself with, he condemned them as impious, and such as made against the interest and honour of holy Church. King *Henry*, as soon as he heard of it, took it, as it was fit he should, very much in dudgeon; grievously and most deservedly storming at the insolence of the *Roman* Court, and the Treachery of the Bishop of *Canterbury*. Immediately Letters were dispatcht to the several Sheriffs of the respective Counties, 'That if any Clerk or Layman in their Bayliwicks, should appeal to the 'Court of *Rome*, they should seise him and take him into firm custody; 'till the King give order what his pleasure is: And that they should seise 'into the Kings hand, and for his use, all the Revenues and Possessions of 'the Arch-Bishops Clerks; and of all the Clerks that are with the Arch-'Bishop; they should put by way of safe pledge the Fathers, Mothers, 'and Sisters, Nephews and Neeces, and their Chattels, till the King 'give order what his pleasure is. I have told the Story out of *Matthew Paris*.

You see in this instance a penalty, where there is no fault: It affects or reaches to their Kindred both by Marriage and Blood; a thing not unusual in the declension of the *Roman* Empire after *Augustus* his time. *But let misdemeanors hold or oblige those who are the Authors of them* (was the Order of *Arcadius* and *Honorius*, Emperors, to the Lord Chief Justice *Eutychianus*) *nor let the fear of punishment proceed further than the offence is found.* A very usual right among the *English*, whereby bating the taking away the Civil Rights of Blood and Nobility, none of the Posterity or Family of those who lose their honours, do for the most hainous crimes of their Parents, undergo any penalties.

C. de pœnis. l. 21. sancimus.

V. Canut. leg. 74.

But this was not all, in those Letters I mentioned, he added threats also.

63. 'If any one shall be found carrying Letters or a Mandate from the 'Pope, or *Thomas*, Arch-Bishop of *Canterbury*, containing an interdiction 'of Christian Religion in *England*, let him be seised and kept in hold, 'and let Justice be done upon him without delay, as a Traitor against the 'King and Kingdom. This *Roger* of *Hoveden* stands by, ready to witness.

64. 'Let

64. 'Let the Bishops of *London* and *Norwich* be summon'd, that they may 'be before the Kings Justices to do right (*i. e.* to answer to their charge, 'and to make satisfaction) that they have contrary to the Statutes of 'the Kingdom, interdicted the Land of Earl *Hugh*, and have inflicted a 'sentence of Excommunication upon him. This was *Hugh Bigod*, Earl of *Norfolk*.

65. 'Let St. *Peters* pence be collected, or gathered, and kept safe. Those *Pence* were a Tribute or Alms granted first by *Ina* King of the *West-Saxons*; yearly at *Lammas* to be gathered from as many as 'had thirty pence (as we read it in the *Confessor*'s Laws) 'of live-mony in their house. These were duly, at a set time, paid in, till the time of *Henry* the eighth, when he set the Government free from the Papal Tyranny: About which time *Polydore Virgil* was upon that account in *England*, Treasurer, or Receiver general. I thought fit to set down an ancient brief account of these pence, out of a Rescript of Pope *Gregory* to the Arch-Bishops of *Canterbury* and *York*, in the time of King *Edward* the second.

Fox. in hist. Eccles. Ed. 2. Rescript. dat. 10. Kal. Maii ap. Veterem urbem, Pontificat. 2.

Diocess	li.	s.	d.
Canterbury	07	18	00
London	16	10	00
Rochester	05	12	00
Norwich	21	10	00
Ely	05	00	00
Lincoln	42	00	00
Coventry	10	05	00
Chester	08	00	00
Winchester	17	06	08
Exceter	09	05	00
Worcester	10	05	00
Hereford	06	00	00
Bath	12	05	00
York	11	10	00
Salisbury	17	00	00

It amounts to three hundred *Marks* and a *Noble*; that is, two hundred *Pounds* sterling, and six *Shillings* and eight *Pence*.

You are not to expect here the murder of *Thomas a Becket*, and the story how King *Henry* was purged of the crime, having been absolved upon hard terms.

Conveniunt cymbæ vela minora meæ.

My little Skiff bears not so great a Sail.

CHAP.

CHAP. XV.

A Parliament at Northampton. *Six Circuits ordered. A List of the then Justices. The Jury to be of twelve Knights. Several sorts of Knights. In what cases Honorary Knights to serve in Juries. Those who come to Parliament by right of Peerage, sit as Barons. Those who come by Letters of Summons, are styled* Chevaliers.

NOt long after, the King and the Barons meet at *Northampton*. They treat concerning the Laws and the administration of Justice: At length the Kingdom being divided into six Provinces or *Circuits*, there are chosen from among the Lawyers, some, who in every of those Provinces might preside in the Seat of Justice, Commissioned by the Name of *Itinerant Justices*, or *Justices in Eyre*. See here the List and Names of those Justices out of *Hoveden*:

Hugh de Cressi. *Walter Fitz-Robert. Robert* Pantel.	for	*Norfolk. Suffolk. Cambridge. Huntington. Bedford. Buckingham. Essex. Hertford.*
Hugh de Gundeville. William Fitz-Ralph. William Basset.	for	*Lincoln. Nottingham. Darby. Stafford. Warwick. Northampton. Leicester.*
Robert Fitz-Bernard. Richard Gifford. *Roger Fitz-*Reinfrai.	for	*Kent. Surrey. Southampton. Sussex. Barkshire. Oxford.*
William Fitz-Steeven. Bertam de Verdun. *Turstan Fitz-Simon.*	for	*Hereford. Glocester. Worcester. Shropshire.*

Ralph Fitz-Steeven. *William Ruffus.* *Gilbert* **Pipard.**	for	*Wiltshire.* *Dorsetshire.* *Somersetshire.* *Devonshire.* *Cornwall.*
Robert de **Mals.** *Ralph de* **Glanville.** *Robert* **Pikenot.**	for	*York.* *Richmond.* *Lancashire.* *Copland.* *Westmoreland.* *Northumberland.* *Cumberland.*

'These he made to take an Oath, that they would themselves, *bona 'fide*, in good faith, and without any deceit or trick, ('tis the same Author whose words I make use of) 'keep the under-written *Assizes*, and 'cause them inviolably to be kept by the men of the Kingdom. He mentions them under this specious Title.

The ASSISES *of King* HENRY, *made at* Clarendon, *and renewed at* Northampton.

66. 'If any one be called to do right (or be served with a Writ) before 'the Justices of our Lord the King, concerning Murder, or Theft, or 'Robbery, or the receiving and harbouring of those who do any such 'thing; or concerning Forgery, or wicked setting fire of houses, *&c.* 'let him upon the Oath of twelve Knights of the Hundred; or if there be 'no Knights there, then upon the Oath of twelve free and lawful men, 'and upon the Oath of four men out of each Village of the Hundred, 'let him go to the Ordeal of Water, and if he perish, *i. e.* sink, let him 'lose one foot. The *Knights* who are wanting here, are perhaps those who hold by Knights service, or if you had rather, that hold by Fee; betwixt whom, and those who served in War for wages or pay, which in the Books of Fees are called *Solidatæ* (the same peradventure as by *Cæsar* are termed *Soldurii*, that is, *Soldiers*; by *Nicolaus Damascenus*, Σιλοδῦροι, by our Monks, *Bracton*, *Otho Frisingensis*, and *Radevicus*, in the Camp Laws of *Barbarossa*, are styled *Servientes*, that is, *Serjeants*) there is an apparent difference; both of them being placed far below the dignity of those honorary Knights, who are called *Equites aurati*.

Cæs. comm. l. 3. Ath. dipn. l. 6. Feud. l. 2. tit. 20. Otho Frisf. lib. de Frederic. 1. Radevic. l. 1. c. 26.

But yet I do very well know, that these *honorary Knights* also were of old time, and are now by a most certain right called forth to some Tryals by Jury. To the *Kings Great* or *Grand Assise* (I say) and to a Suit of Law contested, when a Baron of Parliament is Party on one side, *i. e.* Plaintiff or Defendant. To the *Assise*, in that it is the most solemn and honourable way of Tryal, and that which puts an utter end to the claim of the Party that is cast. To such an *unequal suit*, that there may be some equality of Name or Title as to some one, at least, of the Judges (for the *Jury* or twelve men are upon such occasion Judges made) and

Bract. l. 5. de Essoniis, c. 10. & 26 Ed. 3. fo. 57. a. 30 Ed. 3. fol. 2. 6. v. 17 Ed. 2. tit. **Attaint.** 69. 12 Ed. 3. tit. **Challenge.** 115. Plo. com. fol. 117. 8 H. 6. fol. 10.

and as to the more honourable of the two parties, whether Plaintiff or Defendant. For the *Peers* of Parliament, who are the greater Nobles (amongst whom by reason of their Baronies, *Arch-Bishops* and *Bishops*, heretofore a great many *Abbots)* such as are *Dukes*, *Marquesses*, *Earls*, *Viscounts*, and *Barons*; who though they be distinguished by Order and honorary Titles, yet nevertheless they sit in Parliament, only as they are *Barons* of the Realm. And those who at the Kings pleasure are called in by Letters of summons, as Lawyers term it, are styled **Chevaliers**, not *Barons*. For that of *Chevalier* was a Title of Dignity; this of *Baron* anciently rather of Wealth, and great Estate. Which Title only such Writs of Summons bestowed till *Richard* the seconds time, who was the first that by Patent made *John Beauchamp* of *Holt*, Baron of *Kiderminster*: Now both ways are in fashion.

CHAP. XVI.

The person convict by Ordeal, *to quit the Realm within Forty dayes. Why Forty dayes allowed. An account of the Ordeals by Fire and Water. Lady* Emme *clear'd by going over burning Coulters. Two sorts of tryal by Water. Learned conjectures at the rise and reason of these customs. These Ordeals, as also that of single Combat condemned by the Church.*

67. 'AT *Northampton* it was added for the rigour of Justice, (remember what was said in the foregoing Chapter) 'that he 'should in like manner lose his right Hand or Fist with his Foot, and for-'swear the Realm, and within Forty Dayes go out of the Kingdom into 'banishment. (He had the favour of Forty Dayes allowed him, so saith *Bracton*, that in the mean time he might get help of his friends to make provision for his Passage and Exile.) 'And if upon the tryal by water he 'be clean, *i. e.* innocent, let him find pledges, and remain in the Realm, 'unless he be arighted for Murder, or any base Felony, by the Commu-'nity or Body of the County, and of the Legal Knights of the Countrey, 'concerning which, if he be arighted in manner aforesaid, although he 'be clean by the tryal of Water; nevertheless let him quit the Realm 'within Forty Dayes, and carry away his Chattels along with him, sa-'ving the right of his Lords, and let him forswear the Realm at the mer-'cy of our Lord the King.

Bract. tract. de Coron. l. 3.

Here let me say a little concerning the Tryal by Fire and Water, or the Ordeals. It is granted, that these were the *Saxons* wayes of tryal, rashly and unadvisedly grounded upon Divine Miracle. They do more appertain to Sacred Rites, than to Civil Customs; for which reason we past them by in the former Book, and this place seemed not unseasonable to put the Reader in mind of them. 'He who is accused, is bound to 'clear himself ('tis *Ralph Glanvill* writes this) by the Judgement of 'God, to wit, by hot burning Iron, or by Water, according to the dif-'ferent condition of men: by burning hot Iron, if it be a free-man; by 'Water, if he be a Countrey-man or Villain. The party accused did carry in his hand a piece of Iron glowing hot, going for the most part two or three steps or paces along, or else with the soles of his feet did walk upon red hot Plough-shares or Coulters, and those, according to the Laws of the *Franks* and *Lombards*, nine in number. The Lady *Emme* the *Confessor*'s Mother being impeached of Adultery with *Aldwin* Bishop of *Winton*, was wonderfully cleared by treading upon so many, and is famous for it in our Histories, being preserved safe from burning, and proved innocent from the Crime.

Glanv. l. 14. c. 1.

Polydor. hist. l. 8. Matth. Park. in vit. Rob. Archiep. Cant.

There were two sorts of watery *Ordeal* or tryal by Water; to wit, cold or scalding hot. The party was thrown into the cold water, as in some places at this day Witches are used: he who did not by little and little sink to the bottom, was condemned as guilty of the Crime, as one whom that Element, which is the outward sign in the Sacrament of Regeneration, did not admit into its bosome. As to scalding Water, ones arm in

in that manner thrust in up to the elbow, made a discovery of the truth; and *Ælstan* a Monk of *Abendon*, afterward Bishop of *Shirburn*, thrusting in his bare Hand into a boiling Cauldron, shewed himself with some pride to his Abbot.

But that they say, that Rusticks or Vassals only were tryed by Water, (for *Water* is ascribed to the earthly and ignoble nature, *Fire* to the heavenly; so that from the use of Fire peculiar to man, *Firmianus Lactantius* hath fetcht an argument for the Immortality of the Soul) that this is not altogether so true, is made out by that one example of *John*, a Noble and Rich old man, who in the time of King *Henry* the Second, when, being charged with the death of his Brother the Earl of *Ferrers*, he could not acquit himself by the Watery Tryal, was hang'd on a Gallows. Malmesb. l. 2. de gest. Pontif. Lact. Instit. l. 7. de divin. præm. c. 9. Hoveden. annal. l. 2.

Whence or by what means both these Customs were brought in among Christians, 'tis none of my business to make an over strait inquiry. I remember that *Fire* among the Ancients was accounted purgative; and there is one in a Tragedy of *Sophocles* intitled *Antigone*, who of his own accord profest to King *Creon*, Cœl. Rhod. antiq. sect. l. 17. c. 21.

———χ' μύδρους αἴρειν χεροῖν
Καὶ πῦρ διέρπειν.——— Sophocles in Antigone.

That in his hands he red-hot gads would keep,
And over burning gleads would bare-foot creep.

to shew himself innocent as to the Burial of *Polynices*. I pass by in silence that *Pythagorical* opinion, which placeth Fire in the Centre of the Universe, where *Jupiter* hath his Prison; which Fire some, however the *Peripateticks* stiffly oppose it, would have to be in plain terms the *Sun*, Arist. 2. de Cœlo.

———ὃς πάντ' ἐφορᾷ, χ' πάντ' ἐπακούει. Iliad. 3.

Who all things overlooks, and all things hears.

Yet I shall not omit this, that in the holy Bible the great and gracious God hath of a truth discovered himself to mortal conception in the very name of *Fire*, אש, as a thing agreeable to Divinity, as saith *John Reuchlin*; and that S. *Paul* hath, according to the *Psalmists* mind, stiled the Ministers of God, *a flame of fire*. And indeed to abuse the holy Scriptures, by mis-interpreting them, is a custom too ancient and too too common. Deut. 4. Zanch. de nat. Dei, l. 1. c. 6. Reuchl. de verb. mirif. l. 2. c. 16. Psalm 104. Hebr. 1. 7.

Homer and *Virgil* both sing of

———*Imperjuratam Stygiamque paludem,*
Dii cujus jurare timent & fallere numen. Æneid. 6.

that is,

———Th' unperjur'd Stygian lake,
Whose name the Gods do fear in vain to take.

We

We read of the Infants of the *Celts*,

Anthol. 9. Epigr. μγ.

Κεκριμένους λυτρῶσιν ἐλεγχιγάμους ποταμοῖς.

Try'd in the streams of sacred Flood,
Whether of right or of bale blood;

Polyhist. l. 1. c. 10. Ovid. Fast. 2. Senec. Ep. 41. as it is in the *Greek Epigrams*: of the fountains of *Sardinia*, in *Solinus*: of the moist *Februa*, or purifications by water, in *Ovids Fastorum*: and of those Rivers that fell from Heaven, and their most wonderful and hidden natures, among Natural Philosophers. But most of these things were not known peradventure in our *Ordeals*. Yet *Martin Del Rio*, a man of various Reading and exquisite Learning, hath in his *Magical Inquiries* offered a conjecture, that the tryal by Water crept into use from a paltry imitation of the *Jews* Cup of Jealousie.

Mart. del Rio disq. mag. l. 4. sect. 3. & 4.

Truth is, a great many instances both of this way of trying by Water and of that by Fire, are afforded by the Histories of the *Danes*, *Saxons*, *Germans*, *Franks*, *Spaniards*, in a word, of the whole Christian World.

Ovid. Fast. 4.

An quia cunctarum concordia semina rerum,
Sunt duo discordes Ignis & Unda dei,
Junxerunt elementa Patres?

was it, saith the Poet,

'Cause the two diff'ring Gods,
Always at odds,
That of Water, that of Fire,
Which yet in harmony conspire
The seeds of all things fitly join'd;
Therefore our Fathers have these two combin'd.

Or was it, because that the Etymologie of the Word השמים *Hashamaim*, that is, *Heaven*, (for the Heavens themselves were the feigned Gods of the Gentiles) some are pleased with the deriving it from אש *Esh*, *i. e. Fire* and מים *Maim*, *i. e. Water*: Let some more knowing *Janus* tell you.

Pic. Mirandula in Heptaplo.

Pindar. Olymp. 3.

——ἐ μὲν διώξω· κενὸς εἶην.

For my part I shall not this game pursue;
Why should I lose my time and labour too?

The superstitions and fopperies, the rites and usages, the lustrations and purifyings, the Prayers and Litanies, and the solemn preparations (in consecrating and conjuring the Water, *&c.*) you have in *Will. Lambard* in his *Explications of Law terms*, and in *Matthew Parker* Arch-Bishop of *Canterbury* in his *Antiquities of the Brittish Church*. Both of them together, with that other of single *Combat* or Duel (for that also was reckoned among the *Ordeals*) were judged by the Church of *Rome* to be impious customs; and it is long since that they have been laid aside, and not put in practice among the common ordinary wayes of peoples purging and clearing themselves.

Vitâ Roberti.

Decret. tit. de vulgar. purgat. caus. 2. quæst. 5.

Well,

Well, now let me come back to my own Country again, and return to *Northampton.*

CHAP. XVII.

Other Laws: Of entertaining of strangers. An **Uncuth**, a **Gust**, a **Hogenhine**; *what of him who confesseth the Murder, &c. Of* **Frank pledge.** *Of an Heir under age. Of a Widows Dowry. Of taking the Kings fealty. Of setting a time to do homage. Of the Justices duty. Of their demolishing of Castles. Of Felons to be put into the Sheriffs hands. Of those who have departed the Realm.*

68. 'LEt it be lawful for no man, neither in Borough nor in Village or place of entertainment, to have or keep in his house, 'beyond one night, any stranger, whom he will not hold to right, (that is, answer for his good behaviour) 'unless the person entertain'd shall 'have a reasonable Essoin or excuse, which the Master or Host of the 'house is to shew to his neighbours; and when the Guest departs, let 'him depart in presence of the neighbours, and in the day time. Hither belongs that of *Bracton.* 'He may be said to be of ones family, who shall 'have lodged with another for the space of three nights; in that the first 'night he may be called **Untuth**, *i.e.* Unknown, a Stranger; but the second night **Gust**, *i.e.* a Guest or Lodger; the third night **Hogenhine** (I 'read **Hawan man**) *i.e.* in Greek ὁμοτεχνος, οἰκεῖος, in Latin *Familiaris,* one of the family.

Bract. l. 3. tract. 2. c. 10. & Canuti leges.

69. 'If any one shall be seised for Murder, or for Theft, or Robbery, 'or Forgery, and be knowing thereof, (*i.e.* shall confess it) or for 'any other Felony which he shall have done, before the Provost (the 'Master or Bailiff of the Hundred or Borough, and before lawful men, 'he cannot deny it afterwards before the Justices. And if the same per'son without Seisin (*with Seisin* in this place is the same as ἐπαυτοφώρῳ, as we commonly say in our Language, **taken with the manner**) shall re'cognize or acknowledge any thing of this nature before them, this 'also in like manner he shall not be able to deny before the Justices.

70. 'If any one shall dye holding in Frank Pledge (*i.e.* having a 'free Tenure) let his heirs remain in such Seisin, as their Father had on 'the day he was alive and dyed, of his fee, and let them have his Chat'tels, out of which they may make also the devise or partition of the de'ceased, (that is, the sharing of his goods according to his will) and 'afterwards may require of their Lord, and do for their relief and other 'things, which they ought to do as touching their Fee (*i.e.* in order to 'their entring upon the estate.)

71. 'If

71. 'If the heir be under age, let the Lord of the Fee take his homage, and have him in custody or keeping for as long time as he ought; 'let the other Lords, if there be more of them, take his homage, and 'let him do to them that which he ought to do.

72. 'Let the Wife of the deceased have her Dowry, and that part of 'his Chattels, which of right comes to her. In former times peradventure it was a like generally practised by the *English*, that the Wife and Children should have each their lawful *Thirds* of the estate; (each of them, I say, if they were in being; but half to the Wife, if there were no issue; and as much to the Children, if the Wife did not survive her Husband:) as it was practised by the *Romans* of old according to the *Falcidian* Law, and of later time by the *Novells* of *Justinian*, that they should have their *Quarter* part. For I see that those of *Normandy*, of *Arras*, of *Ireland*, people that lay round about them, had the same custom. Of this you are to see *Glanvill*, *Bracton*, the *Register* of *Briefs* or *Writs*, and *William Lindwood*, beside the Records or yearly Reports of our Law.

73. 'Let the Justices take the Fealties of our Lord the King before the 'close of *Easter*, and at furthest before the close of *Pentecost*; namely, of 'all Earls, Barons, Knights and Free-holders, and even of Rusticks or 'Vassals, such as have a mind to stay in the Realm; and he who will not 'do fealty, let him be taken into custody as an enemy of our Lord the 'King.

74. 'The Justices have also this to give in charge, that all those, who 'have not as yet done their homage and allegiance to our Lord the King, 'do at a term of time; which they shall name to them, come in and do 'homage and allegiance to the King as to their Liege Lord.

75. 'Let the Justices do all acts of Justice and rights belonging to our 'Lord the King by a Writ of our Lord the King, or of them who shall 'be in his place or stead, as to a half-Knights fee and under; (a *Knights fee* in an old Book, which pretends to more antiquity by far than it ought, concerning *the manner of holding Parliaments*, is said to be *twenty pounds* worth of Land in yearly revenue, but the number prefixt before the *Red Book* of the *Exchequer* goes at the rate of Six Hundred and Eighty Acres:) 'unless the complaint be of that great concern, that it 'cannot be determined without our Lord the King, or of that nature that 'the Justices by reason of their own doubting refer it to him, or to those 'who shall be in his place and stead. Nevertheless let them to the utmost of their ability intend and endeavour the service and advantage 'of our Lord the King.

76. 'Let the Justices provide and take care, that the Castles already 'demolisht, be utterly demolished, and that those that are to be demolished, be well levelled to the ground. And if they shall not do this, 'our Lord the King may please to have the judgement of his 'Court against them, as against those who shew contempt of his 'Precept.

77. 'A

77. 'A Thief or Robber, as soon as he is taken, let him be put into 'the Sheriffs hands to be kept in safe custody; and if the Sheriff shall 'be out of the way, let him be carried or brought to the next Con-'stable of a Castle, and let him have him in custody, until he deliver 'him up to the Sheriff.

78. 'Let the Justices according to the custom of the Land, cause in-'quiry to be made of those, who have departed or gone out of the 'Realm. And if they shall refuse to return within a term of time that 'shall be named, and to stand to right in the Kings Court (*i. e.* to make their appearance, and there to answer, if any thing shall be brought in against them) 'let them after that be outlawed, and the names of the 'Outlaws be brought at *Easter* and at the Feast of St. *Michael* to the Ex-'chequer, and from thence be sent to our Lord the King.

These Laws were agreed upon at *Northampton*.

N CHAP.

CHAP. XVIII.

Some Laws in favour of the Clergy. Of forfeitures on the account of Forest or hunting. Of Knights fees. Who to bear Arms, and what Arms. Arms not to be alienated. No Jew *to bear Arms. Arms not to be carryed out of* England. *Rich men under suspicion to clear themselves by Oath. Who allowed to swear against a Free-man. Timber for building of Ships not to be carryed out of* England. *None but Free-men to bear Arms. Free-men who. Rusticks or Villains not such.*

Matth. Paris. 79. 'THat henceforth a Clergy-man be not dragg'd and drawn before a Secular Judge personally for any crime or transgression, unless it be for Forest or a Lay-fee, out of which a Lay-service is 'due to the King, or to some other Secular Lord. This priviledge of the Clergy the King granted to *Hugh* the Popes Cardinal Legate, by the Title of S. *Michael à Petra*, who arrived here on purpose to advance the Popish interest.

80. 'Furthermore, that Arch-Bishopricks, Bishopricks or Abbacies be 'not held in the Kings hand above a year, unless there be an evident 'cause, or an urgent necessity for it.

81. 'That the Murderers or Slayers of Clergy-men being convicted, 'or having confest before a Justice or Judge of the Realm, be punished 'in the presence of the Bishop.

V. Britton. cap. d' Appeales, and temp. Ed. 1. tit. Quod permittat. 9.

82. That Clergy-men be not obliged to make Duel: *i. e.* not to clear themselves, as others upon some occasion did, by single combat.

83. 'He ordained at Woodstock (we transcribe these words out of *Hoveden*) 'that whosoever should make a forfeit to him concerning 'his Forest, or his hunting once, he should be tyed to find safe Pledges 'or Sureties; and if he should make a second forfeit, in like manner 'safe Pledges should be taken of him; but if the same person should 'forfeit the third time, then for his third forfeit, no pledges should be 'taken, but the proper body of him who made the forfeit.

Moreover, we meet with these Military Laws, or Laws of *Knights fees*, made for Tenants and other people of the common sort.

84. 'He who hath one Knights fee ('tis the aforesaid *Hoveden* speaks) 'let him have an Habergeon or Coat of Male, and a Helmet or 'Head-piece and a Buckler or Target and a Lance: and let every Knight 'have so many Habergeons, and Helmets, and Targets, and Lances, as 'he shall have Knights fees in his demeans.

85. 'Whatsoever Free-holder that is a Lay-man, shall have in Chattel 'or

'or in Rent and Revenue to the value of Sixteen Marks, let him have a 'Coat of Male, and a Head-piece, and a Buckler, and a Lance.

86. 'Whatsoever Lay person being a Free-man, shall have in Chattel 'to the value of Ten Marks, let him have a little Habergeon, or Coat 'of Male, and a Capelet of Iron, and a Lance.

87. 'Let all Burghers or Towns-men of a Corporation, and the 'whole Communities of Free-men have a Mambais, and a Capelet of 'Iron, and a Lance.

88. 'Let no one, after he hath once had these Arms, sell them, nor 'pawn them, nor lend them, nor by any other way alienate them from 'himself, or part with them: nor let his Lord alienate them by any 'manner of way from his man (*i. e.* his Tenant that holds under him) 'neither by forfeit, nor by gift, nor by pledge, nor by any other way.

89. 'If any one shall dye having these Arms, let them remain to 'his heir; and if the heir be not of such estate or age, that he may use 'the Arms, if there shall be need, let that person who shall have 'them (the heir) in custody, have likewise the keeping of the Arms, 'and let him find a man, who may use the Arms in the service of our 'Lord the King, if there shall be need, until the heir shall be of such 'estate, that he may bear Arms, and then let him have them.

90. 'Whatsoever Burgher shall have more Arms, than it shall be-'hove him to have, according to this Assize, let him sell them, or give 'them away, or so dispose of them from himself to some other man, 'who may retain them in *England* in the service of our Lord the 'King.

91. 'Let no one of them keep by him more Arms, than it shall be-'hove him according to this Assize to have.

92. 'Let no *Jew* keep in his possession a Coat of Male or an Haber-'geon, but let him sell them, or give them, or in some other manner 'put them away, in that wise that they may remain in the service of 'the King of *England*.

93. 'Let no man bear or carry Arms out of *England*, unless it be 'by special order of our Lord the King; nor let any one sell Arms to 'any one, who may carry them from *England*; nor let Merchant or 'other carry or convey them from *England*.

94. 'They who are suspected by reason of their wealth or great 'estate, do free or acquit themselves by giving their Oaths. The *Justices* have Power or Jurisdiction given them in the case for this pur-pose. 'If there shall be any, who shall not comply with them (the Justices) 'the King shall take himself to the members or limbs of such 'persons, and shall by no means take from them their Lands or 'Chattels.

95. 'Let no one swear upon lawful and free-men, (*i. e.* in any matter against or concerning them) who hath not to the value of Sixteen 'or Ten Marks in Chattel.

96. 'Let no one, as he loves himself and all that he hath, buy or sell 'any Ship to be brought from *England*; nor let any one carry, or cause 'to be carryed out of *England* Timber for the building of Ships.

97. Let no one be received or admitted to the Oath of bearing Arms 'but a Free-man.

To bring once for all something concerning a *Free man*, that may not be beside the purpose. The ancient Law of *England* bestowed that name only upon such persons, as many as, either being honoured by the Nobility of their Ancestors, or else out of the Commonalty being of ingenuous Birth (to wit, of the Yeomanry) did not hold that rustick fee or Tenure of Villenage) dedicated to *Stercutius* (the God of Dunghils) and necessarily charged and burthened with the Plough tail, the Wain, and the Dray, which are the hard Countrey-folks Arms and Implements. To this purpose makes the term of *Rustick* or *Countrey-man* above mentioned in the Statutes of *Clarendon*, and the place of *Glanvill* cited in the Tryal of *Ordeal*.

Temp. Ed. 1. tit. Attorney, 103.

That the business may be more clearly asserted; a Suit of Law being waged in the time of *Edward* the First, betwixt *John Levin* Plaintiff and the Prior of *Bernwell* Defendant (I have taken the Story out of an old Manuscript, and the Reports of our Law, and the Collection or Body of the Royal Rescripts do agree to it) it was then, after several disputes bandied to and fro, and with earnestness enough, decided by the judgement of the Court, that those Tenants which hold in fee *from the ancient Domain of the Crown*, as they call it, are by no means comprehended under the title of *free-men*; as those who driving their labour around throughout the year pay their daily Vows to *Ceres* the Goddess of Corn, to *Pales* the Goddess of Shepherds, and to *Triptolemus* the Inventer of Husbandry or Tillage, and keep a quarter with their *Gee Hoes* about their Chattel.

And now death hath put an end to King *Henry*'s Reign. And I also having made an end of his Laws, so far as Histories do help me out, do at the last muster and arm my Bands for the guard of my Frontiers. I wish they may be of force enough against Back-biters.

CHAP.

CHAP. XIX.

Of Law-makers. Our Kings not Monarchs at first. Several of them in the same County. The Druids *meeting-place where. Under the* Saxons, *Laws made in a general Assembly of the States. Several instances. This Assembly under the* Normans *called* Parliament. *The thing taken from a custome of the ancient* Germans. *Who had right to sit in Parliament. The harmony of the Three Estates.*

BUt however *Laws* are not without their *Makers* and their *Guardians*, or they are to no purpose. It remaineth therefore that we say somewhat in general of them. They are *made* either by Use and *Custom* (for things that are approved by long Use, do obtain the force of Law) or by the Sanction and *Authority* of Law-givers. Of ancient time the *Semnothei*, the *Kings* and the *Druids* were *Law-givers*; amongst the *Britans* I mean.

Concerning the *Semnothei* whatsoever doth occurr you had before.

The *Kings* were neither Monarchs of the whole Island, nor so much as of that part of *Brittany* that belonged to the *Angles*. For there were at the same time over the single County of *Kent* four Kings; to wit, *Cyngetorix*, *Carvilius*, *Taximagulus*, and *Segonax*; and at the same rate in other Counties. Wherefore we have no reason to make any question, but that part wherein we live, now called *England*, was governed by several persons, and was subject to an Aristocracy: according to what *Polydore Virgil*, *John Twine*, *David Powell* and others have informed us.

Polyd. hist. Angl. 2. Tuin. Com. de reb. Albion. Dav. Pouel. in Epist. Guli. Flætwode.

The *Druids* were wont to meet, to explain the Laws in being, and to make new ones as occasion required, as is most likely, in some certain place designed for that purpose; as now at this very time all matters of Law go to be decided at *Spire* in *Germany*, at *Westminster*-Hall in *England*, and *Paris* in *France*.

Their publick Convention or Meeting-place was constantly, as *Julius Cæsar* tells us, in the borders of the *Carnutes* the middle Region of all *France*. Some think that a Town at eight Miles distance from the *Metropolis* of those people commonly called *Dreux*, was designed for that use.

Cæs. l. 6. de bell. Gall.

Paul. Merula.

Whilst the *Saxons* governed, the Laws were made in the General Assembly of the States or Parliament. In the front of King *Ina*'s Laws ('tis above Eight Hundred and Eighty years that he first reigned) we read thus, **Ic Ine mid godes gift West-Saxna Cyning mid getheat & mid lere Cenredes mines fader & hedde & Erconwald mine biscops & mid eallum minum, ealdor mannum, & tham yldestan Witan mines theode be beodeth, &c.** which in our present *English* speaks thus, *I* Ina *by the Grace of God King of the* West-Saxons, *by the advice and order of* Kenred *my Father, and of* Hedda *and* Erconwald *my Bishops, and of all my Aldermen, and of the Elders and Wise Men of my people, do command*, &c. There are a great many instances of this kind in other places. Moreover *Witlaf* and *Bertulph*, who were Kings of the *Merci-*

Ingulph.

ans

ans near upon Eight hundred years ago, do in their instruments under 'their hands make mention of Synods and Councils of the Prelates and 'Peers convened for the affairs of the Kingdom. And an ancient Book has this passage of *Abendon*, 'Here was the Royal Seat, hither when they 'were to treat of the principal and difficult points of State, and affairs of 'the Kingdom, the people were used to meet and flock together. To this may be added that which *Malmesbury* sayes of King *Eaward* in the year of our Lord 903. 'The King gathered a Synod or Assembly of the 'Senators of the *English* Nation, over which did preside *Pleimund* Arch-'Bishop of *Canterbury* interpreting expresly the words of the Apostolical 'Embassy. These Assemblies were termed by the *Saxons*, Wiccena ȝemoter, *i.e.* Meetings of the Wise Men, and Micil ȝinoter, *i.e.* the Great Assemblies. At length we borrowed of the *French* the name of *Parliaments*, which before the time of *Henry* the First, *Polydore Virgil* sayes, were very rarely held. An usage, that not without good reason seems to have come from the ancient *Germans*. So *Tacitus* sayes of them, 'Concerning smaller matters the Princes only, concerning things of 'greater concern, they do all the whole body of them consult; yet in 'that manner, that those things also, which it was in the peoples power 'to determine, were treated of by the Princes too. And I have one that hath left it in writing, 'that when there was neither Bishop, nor Earl, 'nor Baron, yet then Kings held their Parliaments: and in King *Arthur*'s Patent to the University of *Cambridge* (for ye have my leave, if you can find in your heart, to give credit to it, as *John Key* does) 'by the coun-'sel and assent of all and singular the Prelats and Princes of this Realm, 'I decree.

Camden.

Polyd. hist. Angl. l. 11.

Mod. ten. Parl.

Jo. Caius Antiq. Cantabrig. l. 1.

There were present at *Parliaments*, about the beginning of the *Normans* times, as many as were invested with Thirteen Fees of Knights service, and a third part of one Fee, called *Baron*'s, from their large Estates: for which reason perhaps *John Cochleius* of *Mentz*, in his Epistle Dedicatory to our most Renowned Sir *Thomas More*, prefixt before the Chronicle of *Aurelius Cassiodorus*, calls him *Baron* of *England*. But *Henry* the Third, the number of them growing over big, ordered by Proclamation, that those only should come there, whom he should think fit to summon by Writ.

V. 22 Ed. 3. fol. 18.

These Assemblies do now sit in great State, which with a wonderful harmony of the Three Estates, the *King*, the *Lords* and the *Commons*, or Deputies of the People, are joyned together, to a most firm security of the publick, and are by a very Learned Man in allusion to that made word in *Livy*, *Panatolium* from the *Ætolians*, most rightly called *Pananglium*, that is, *all England*. 'As in Musical Instruments and Pipes 'and in Singing it self, and in Voices (sayes *Scipio* in *Tully*'s Books of the Common-wealth) 'there is a kind of harmony to be kept out of distinct 'sounds, which Learned and Skilful Ears cannot endure to hear changed 'and jarring; and that consort or harmony, from the tuning and orde-'ring of Voices most unlike; yet is rendred agreeing and suitable: so 'of the highest and middlemost and lowermost States shuffled together, 'like different sounds, by fair proportion doth a City agree by the con-'sent of persons most unlike; and that which by Musicians in singing is 'called *Harmony*; that in a City is *Concord*, the straightest and surest 'bond of safety in every Common-wealth, and such as can by no means 'be without Justice.

August. de civ. Dei, l. 2. c. 21.

But let this suffice for *Law-makers*.

CHAP.

CHAP. XX.

The Guardians of the Laws, who. In the Saxons *time seven Chief. One of the Kings among the Heptarchs styled* Monarch *of all* England. *The Office of Lord* High Constable. *Of Lord* Chancellor, *ancient. The Lord* Treasurer. Alderman *of* England, *what. Why one called* Healfkoning. Aldermen *of Provinces and* Graves, *the same as* Counts *or* Earls *and* Viscounts *or Sheriffs. Of the* County Court, *and the Court of Inquests, called* Tourn le Viscount. *When this Court kept, and the original of it.*

I Do scarce meet before the *Saxons* times with any Guardians of the Laws different from these Law-makers. In their time they were variously divided, whose neither Name nor Office are as yet grown out of use. The number is made up, to give you only the heads, by these; to wit, the *King*, the Lord *High Constable*, the *Chancellor*, the *Treasurer*, the *Alderman of England*, the *Aldermen of Provinces* and the *Graves*. Those of later date and of meaner notice I pass by, meaning to speak but briefly of the rest.

The *King* was alwayes one amongst the *Heptarchs* or seven Rulers, who was accounted (I have *Beda* to vouch it) the *Monarch of all England*. 'Ella King of the *South-Saxons* (so sayes *Ethelwerd*) was the 'first that was dignified with so high a Title and Empire, who was 'Owner of as large a Jurisdiction as *Ecbright*; the second was *Ceulin* 'King of the *West-Angles*; the third *Æthelbrith* King of the *Kentish*-'men; the fourth *Redwald* King of the *Easterlings*; the fifth *Edwin* King 'of *Northumberland*; the sixth *Oswald*; the seventh *Osweo*, *Oswald*'s Bro-'ther; after whom the eighth was *Ecbright*. His *West-Saxon* Kingdom took in the rest for the greatest part. Ethelwerd. l. 3. c. 2.

The Office of Lord *High Constable*, which disappeared in *Edward* Duke of *Buckingham*, who in *Henry* the Eighth's time lost his Head for High-Treason, was not seen till the latter end of the *Saxons*. One *Alfgar Staller* is reported by *Richard* of *Ely* Monk, to have been Constable to *Edward* the *Confessor*, and Mr. *Camden* mentions a dwelling of his upon this account called Plaisy in the County of *Middlesex*. He of *Ely* sets him out for *a Great and Mighty Man in the Kingdom*. And indeed formerly that Magistrate had great power, which was formidable even to Kings themselves. Hist. Elienf. Camd. in Northampt. V. Kel. relat. 6 Hen. 8. fol. 171. Stat. 13 Rich. 2. c. 2 Matth. Paris, pag. 563. Brook tit. Prerogative. 31.

They who deny there were any *Chancellors* before the coming in of the *Normans*, are hugely mistaken. Nor are they disproved only out of the Grant of *Edward* the *Confessor* to the Abbot of *Westminster*, which I am beholden to Mr. *Lambard* for, at the bottom of which these words are set down: *I* Syward *Publick Notary, instead of* Rembald *the Kings Majesties* Chancellor, *have written and subscribed this paper*; but also out of *Ingulph*, who makes mention of *Turketulus*, some while after that Abbot of *Crowland*, Chancellor of King *Edred*, 'by whose Decree and Counsel

'were

'were to be handled & treated whatsoever businesses they were, Tempo-
'ral or Spiritual, that did await the Judgement of the King; and being thus
'treated of by him, might irrefragably stand good. And *Francis Thinn*,
that Learned Antiquary has reckoned up several, who have discharged
this Office; as *Turketill* to King *Ethelbald*, *Swithin* Bishop of *Winche-
ster* to King *Egbert*, *Ulfin* to King *Athelstan*, *Adulph* to King *Edgar*, *Alfy*
Abbot and Prelate of *Ely* to King *Ethelred*. Concerning which Office
and the Seals, which the *Chancellor* in old time had the keeping of, I had
rather you would consult with *Camden*'s Tribunals or Seats of Justice,
and those things which *John Budden* at *Wainfleet* Doctor of Laws has
brought out of the *Archives* into his *Palingenesia*, than seek them at my
hands.

Fr. Thin. in contin. Chr. Eliz.

As for *Treasurers*, *Dunstan* was so to King *Edred*, and *Hugolin* to the
Confessor.

Matth. Cant. in Odonis severitâ.

But that fifth title of *Alderman of England*, is an unusual one. Yet, if
I don't mistake my self, he was the Chief President in Tryals at Law,
and an Officer to keep all quiet at home; the same as now perhaps is
commonly called the *Lord Chief Justice of England*. This remarkable
name I do not meet with, neither in the Monkish *Chronologers*, which
are to be had at the Shops, nor in the *Records* of our Laws. But a pri-
vate History of the Abbey of *Ramsey* in *Huntingdon-shire* has given us no-
tice of one *Ailwins* Tomb with this Inscription,

Camden.

HIC. REQUIESCIT. AILWINUS. INCLITI. REGIS. EADGARI. COGNATUS. TOTIUS. ANGLIÆ. ALDERMANNUS. ET. HUJUS. SACRI. COENOBII. MIRACULOSUS. FUNDATOR.

that is, *Here resteth* Ailwin *Kinsman of the Renowned King* Edgar, *Al-
derman of all* England, *and the miraculous Founder of this Sacred Monastery*.
And by reason of his great Authority and Favour which he had with the
King, by a Nick name they called him **Healfkoning**, i. e. *Half-King*.
Now *Henry* of *Huntingdon* sayes, that *Tostius* Earl (or to use his phrase
Consul) of *Northumberland*, and *Harald* Sons of *Godwin* Earl of *Kent*
were *Justices of the Realm*.

Huntingd. hist. l. 6.

Aldermen may aptly be termed by the word *Senators*. Those Judges
did exercise a delegated power throughout the Provinces, called *Counties*
or *Shires*, and the *Graves* an under-delegated power from them. The
word is as much as Governours, and is the same thing, as in High
Dutch **Grave** in **Landgrave**, **Burgrave**, **Palsgrave**, &c. and what
amongst some of our own people **Reeve**. We shall call them both, as
that Age did, in a *Latin* term, the one *Comites*, *i. e.* Counts or Earls, the
other *Vicecomites*, that is, Viscounts or Sheriffs.

The name of *Count* is every where met with amongst the most ancient
of the Monks, which yet does very often pass into that of *Duke* in the
subscription of Witnesses. And in the Charter of the Foundation of
Chertsey Abby in *Surrey*, *Frithwald* stiles himself *subregulus*, *i.e.* an under
Kingling or petty Vice-Roy to *Wulpher* King of the *Mercians*; make no
question of it, he meant he was a *Count*.

Camden.

A *Viscount* and a Vice-Lord are more than very like, they are the very
same. *Ingulph* sayes it above. 'And in the last hand-writing of King
'*Edred* we have, I *Bingulph* Vice-Lord advised it, I *Alfer* Viscount
'heard it.

These

These *Counts* and *Viscounts*, or *Earls* and *Sheriffs* had in their Counties their several *Courts* both for private and for publick matters. For private affairs they had every Month a Meeting called the **County Court.** 'Let every *Grave*, as we have it in *Edward* the Elder's Laws, every 'fourth Week convene and meet the people in Assembly; let him do 'equal right to every one, and determine and put an end to all Suits 'and Quarrels, when the appointed days shall come. For publick business King *Edgar* ordered the *Court of Inquests* or Inquiries, called **Tourn le Viscount.** 'Let a Convention or Meeting be held twice every year 'out of every County, at which let the Bishop of that Diocess, and the 'Senator, (*i. e.* the Alderman) be present; the one to teach the people 'the Laws of God; the other the Laws of the Land. What I have set down in *William the First* at the end of the fourth Chapter of this second Book, you ought to consider of here again in this place.

Leg. Edw. 5. & Canut. 17.

Leg. Edgar. cap. 11.

The inhabitants did not meet at this *Court of Inquests* at any season promiscuously and indifferently, but as it is very well known by the use and ancient Constitutions of the Realm, within a Month either after *Easter*, or after *Michaelmas*. In which Court, seeing that not only the *Count*, as now a dayes the *Viscount* or *Sheriff* does, but also the *Bishop* did preside; it does not at all seem difficult to trace the very original of this temporary Law. That peradventure was the Synod of *Antioch* held in Pope *Julius* the First's time, and acknowledged in the sixth General Council held at *Constantinople*. In this latter there are expressly and plainly two Councils or Meetings of the Bishops to be kept every year within three Weeks after *Easter*, and about the middle of *October*, (if there be any small difference in the time, it can be no great matter of mistake). You may help your self to more other things of meaner note out of what has been said before about *Hundreds*, *Bourghs* and the like.

Synod. Antioch. c. 20.

Dist. 18. c. 4.

And this may serve in brief for the *Saxons*, who were entrusted with the care of their Laws.

CHAP. XXI.

Of the Norman *Earls. Their Fee. Their power of making Laws. Of the* Barons, i.e. *Lords of Manours. Of the* **Court-Baron.** *Its rise. An instance of it out of* Hoveden. *Other Offices much like with the* Saxons.

I Shall be briefer concerning the *Normans*, I mean their *Earls* and *Barons*.

Their *Counts* or *Earls* before the Conquest, except those of *Leicester*, and perchance some others, were but Officers, and not as yet hereditary. When *William* bore the sway, they began to have a certain Fee and a descent of Patrimony; having together with their Title assigned to them a third part of the Revenues or Rents, which did arise out of the whole County to the Exchequer. This custom is clear enough in *Gervase* of *Tilbury* in the case of *Richard de Redneriis* made Earl of *Devonshire* by *Henry* the First, & *Jeoffrey de Magna Villa* made Earl of *Essex* by *Maud* the Empress. It seems that the *Saxon* Earls had the self-same right of sharing with the King. So in *Doomsday* Book we find it; 'The Queen *Edeua* had 'two parts from *Ipswich* in *Suffolk*, and the Earl or Count Guert the third: 'and so of *Norwich*, that it paid Twenty Pound to the King, and to the 'Earl Ten Pound: so of the Revenues of the Borough of *Lewes* in '*Sussex*, the King had two shares, and the Earl the third. And *Oxford* 'paid for Toll and Gable, and other customary Duties Twenty Pound 'a year to the King, besides Six Quarts of Honey, and to Earl *Algar* 'Ten Pound.

To conclude, it appears also that these *Norman* Earls or Counts had some power of making Laws to the people of their Counties. For instance, the Monk of *Malmesbury* tells us, 'that the Laws of *William Fitz-* '*Osborn* Earl of *Hereford* remained still in force in the said County, that 'no Souldier for whatsoever offence should pay above Seven Shillings. The Writings and Patents of the men of *Cornwall* concerning their Stannaries or Tinn-Mines do prove as much; nor need I tell the story, how *Godiva* Lady to the Earl *Leofrick* rid on Horse-back through the Streets of *Coventry* with her hair dishevelled, all hanging about her at full length, that by this means she might discharge them of those Taxes and Payments, which the Earl had imposed upon them.

Malmesb. de gest. reg. l. 3.

Out of the Countreys (wherein all Estates were subject to Military Service) the *Barons* had their Territories, as we call them **Manours**; and in them their Courts to call their Tenants together, at the end of every three Weeks, and to hear and determine their Causes. A Civilian, one *Udalricus Zazius*, would have the original of these Courts among other Nations, to have come by way of imitation from *Romulus* his making of Lords or Patrons, and their Clanns or Tenants. The use of them at this day is common and ordinarily known. But to shew how it was of old, we will borrow out of *Hoveden* this spark of light. '*John Marshall* complained to *Henry* the Second, that whereas 'he had claimed or challenged in the Arch-Bishops Court a piece of Land

Ad leg. 2. de origin. jur.

Roger de Hoveden in H. 2.

'to

'to be held from him by right of inheritance, and had a long time 'pleaded upon it, he could obtain no Justice in the case, and that he had 'by Oath falsified the Arch-Bishops Court, (that is, proved it to be false 'by Oath, according to the custom of the Realm: to whom the Arch-'Bishop made answer, There has been no Justice wanting to *John* in my 'Court; but he, I know not by whose advice, or whether of his own 'head, brought in my Court a certain Toper, and swore upon it, that 'he went away from my Court for default of Justice; and it seemed to 'the Justices of my Court, that he did me the injury, by withdrawing 'in that manner from my Court; seeing it is ordained in your Realm, that 'he who would falsifie anothers Court must swear upon the holy Gospels. 'The King not regarding these words, swore, that he would have Ju-'stice and Judgement of him; and the Barons of the Kings Court did 'judge him to be in the Kings Mercy; and moreover they fined him 'Five Hundred Pound.

As to doing Justice in all other Cases, and managing of Publick Affairs, the *Normans* had almost the same Names and Titles of Officers and Offices as the *Saxons* had.

FINIS.

A Brief

CHRONOLOGY

TO

Attend and Assist

THE

HISTORY.

In the Year of the WORLD.	
1910.	*Samothes*, if there ever were such a man, bears rule.
2805.	*Brutus* makes a descent, (that is, lands with his *Trojans*) in *Cornwall* or *Devonshire*.
3516.	*Dunvallo Molmutius* swayes the Scepter.
3627.	*Martia*, Dowager of King *Quintilen*, is Queen Regent during the Minority of her Son *Sisillius* the First.

Caius

3942.	*Caius Julius Cæsar* arrives at *Deal* on the Sea-Coast of *Kent*, and
Lucan.	*Territa quæsitis ostendit terga Britannis*,
	that is,
	Having inquiry made, After the Britans bold, He turn'd his back, 'tis said, His courage would not hold:
	and was the first that discover'd *Britanny* to the *Romans*.
In the Year of CHRIST.	
44.	*Claudius Cæsar* Emperour sends over *Aulus Plautius* with an Army as his Lieutenant General, and by degrees reduceth the Countrey into the form of a *Roman* Province.
52.	A Colony of Veterans or old *Roman* Souldiers is sent down to *Maldon* in *Essex*.
86.	*Britanny* is subdued or brought under the yoke by the Conduct of *Junius Agricola*, in the time of *Domitian* the Emperour.
183.	*Lucius* or King Lucy was the first Christian King. Forasmuch as he was of the same standing with Pope *Eleutherius* and the Emperour *Commodus*. Whence it appears, that *Beda* makes others mistake, and is himself mistaken in his wrong account of time in this affair.
428.	The *Saxons*, *Angles*, *Jutes*, *Danes*, *Frisons*, or *Friselanders* arrive here from *Germany*, *Taurus* and *Felix* then Consuls, in the one and twentieth year of *Theodosius* the younger. The common or ordinary account of Writers sets it down the four hundred forty ninth year: but that great man both for Authority and Judgement *William Camden Clarenceaux* King at Arms hath, upon the credit of ancient Records, closed this *Epoch* or Date of time within that term of years, which I have set in the Margin.
561.	King *Ethelbert* the First King of the *English Saxons*, who profest Christianity.
800.	King *Egbert*.

King

872.	King *Alured* or *Alfred.*
959.	King *Edgar.*
1017.	*Canute* or King Knute the *Dane.*
1036.	*Harold*, eldeſt Son to King *Knute*, called for his ſwiftneſs *Harefoot.*
1042.	*Edward* the *Confeſſor*, after whom *Harold* Son to *Godwin* Earl of *Kent* uſurp't the Throne, where he continued only nine Months.
1066.	*William* Duke of *Normandy*, after a Battel fought upon the Plain near *Haſtings*, got the Dominion or Soveraignty of the *Britiſh* Iſland.
1088.	*William Rufus*, ſecond Son of the Conquerour.
1100.	*Henry* the Firſt, younger Brothor to *Rufus.*
1135.	King *Stephen*, Count of *Blois* in *France*, Nephew to *Henry* by his Siſter *Adela.*
1153.	*Henry* the Second, Grand-child to *Henry* the Firſt by his Daughter *Mawd* the Empreſs, and *Jeoffrey* Count of *Angers* in *France.*

FINIS.

BRIEF NOTES UPON Some of the more Difficult Passages IN THE TITLE-PAGE.

Ommon and Statute Law] So I render *Jus Prophanum*, as *Prophane* is opposed to *Sacred* and *Ecclesiastical*, as himself explains the term in his Preface out of *Festus*. Otherwise it might have been render'd *Civil Law*, as relating to Civil affairs and the Government of *State*, not medling with the Canons and Rules of the *Church*; but that the *Civil Law* with us is taken generally in another sense for the *Imperial Law*, which however practised in several other Nations, hath little to do in *England*, unless in some particular cases.

Of English Britanny] that is, that part of *Britain*, which was inhabited by the *Angles*, in *Latin* called *Anglo-Britannia*, by us strictly *England*; as for distinction, the other part of the Island, *Wales*, whither the *Welsh*, the true and ancient *Britans*, were driven by the *Saxons*, is called *Cambro-Britannia*, that is, *Welsh Britanny*; and *Scotland* posset by the *Scots*, is in like manner called *Scoto-Britannia*, that is *Scotch-Britanny*, which now together with *England*, since the Union of the two Kingdoms, goes under the name of *Great Britain*.

In the Author's PREFACE.

The Guardian of my Threshold] So *Limentinus* among the *Romans* was the God of the Threshold, *qui limentis*, i. e. *liminibus praeest*; but it may be taken for the Officer of the Gate, the Porter, who gives admission to strangers.

In a different Character] Accordingly in the *Latin* the Author's Citations are printed in *Italick*; which, because they are so frequent, I thought fit rather to notifie by a distinction, as usual, in the Margin; thus, " "

Intercidona, Pilumnus & Deverra] These were Heathen Deities, to whom they attributed the Care of their Children, whom else they thought *Silvanus* might, like *Oberon* King of the Fairies, surprize or do some other mischief to.

In the FIRST BOOK.

CHAP. I.

Pag. 2. lin. 23. *Among the Celts and Gauls*] Who are reckoned for one and the same people; as for instance, those *Gauls*, who removed into the *Lesser Asia*, mixing with the *Greeks*, were called *Gallo-Graci*, but by the *Greeks* were styled Γαλάται, whence by contraction, I suppose Κέλται.

L. 41. *Bellagines, that is,* By-Laws.] From By, that is, a Village, Town or City, and Lagen, which in *Gothish* is a Law; so that it signifies such Laws, as Corporations are govern'd by. The *Scots* call them Burlaws, that is, Borough-Laws. So that *Bellagines* is put for *Bilagines* or *Burlagines*. This kind of Laws obtains in Courts *Leet* and Courts *Baron*, and in other occasions, where the people of the place make their own Laws.

CHAP. II.

Pag. 4. l. 7. *Adrastia, Rhamnusia & Nemesis.*] Which is all but *Nemesis* the Goddess of Revenge, called *Adrastria* from King *Adrastus*, who first built her a Temple; and *Rhamnusia* from *Rhamnus* a Village in the *Athenian* Territory, where she was worshipped.

L. 42. *Elohim, that is, Gods.*] And so *Judges* are properly called according to the original notation of the word, whose Root אלה *alah*, though in *Hebrew* it signifie to *curse*, yet in the *Arabick* Language, a descendent of the *Hebrew*, it betokens to *judge*. Thus 'tis said in the *Psalms*, *God standeth in the Congregation of the Gods*, and *I have said, Ye are Gods*, &c.

L. 45. *It subjoins to it the name of God.*] To wit, that Name of his אל *El*, which signifies a *mighty God*. In this sense *the Cedars of God* are lofty stately Cedars; and by *Moses* his being *fair to God*, is meant, that he was exceeding fair.

Pag. 5. lin. 18. *Not only Berecynthia, but also Juno, Cybele.*] Why! *Cybele* is the very same Goddess, who was called *Berecynthia* from *Berecynthus*

cynthus a Hill of *Phrygia* (as also *Cybelus* was another) where she was worshipped. And she had several such Names given her from the places of her worship, as *Dindymene*, *Pessinuntia*, *Idæa*, *Phrygia*. This then was a slip of our worthy Author's memory or his haste.

CHAP. III.

Pag. 5. lin. 34. *Not by the number of dayes, but of nights.*] Thus in our common reckoning we say a **Sennight**, that is, *seven nights*; *septinoctium*, for what in *Latin* they say *septimana*, seven mornings; and a **fortnight**, that is, *fourteen nights*. Again for *Sundayes* and *Holy-dayes*, the Evening, which concludes the fore-going day, is said to be their **Eve**, that is, *Evening*. And the *Grecians* agree with us in setting the night before the day, in that they call the natural day, which is the space of twenty four hours, comprehending day and night, Νυχθήμερον, *Night-day*, not *Day-night*.

CHAP. IV.

Pag. 6. lin. 22. *King Phranicus.*] It is so ordinary a matter for Historians, when they treat of things at great distance of time, to devise Fables of their own, or take them up from others, that I doubt not but this *Phranicus* was designed to give name to *France*; whereas it was so called from the *Franks*, who came to plant there out of *Franconia* a Countrey of *Germany*, called *East-France*.

L. 29. *With Corinus one of the chief of his company.*] From whom *Cornwall* had its name, formerly called in *Latin Corinia* or *Cornavia* (say some) now *Cornubia*. And possibly if that were so, *Corinium* also or **Cirencester**, a Town in *Glocestershire*, and *Corinus* too, the River **Churne**, that runs by it, owe their appellations to the same Noble person.

L. 31. *New Troy, that is, London.*] Called also *Troynovant*, and the people about it called *Trinobantes* or *Trinovantes*, from whom also the City it self was styled *Augusta Trinobantum*, that is, the Royal Seat of the New *Trojans*.

L. 40. *King Belin.*] Who gave name to **Billinsgate**, that is, *Belin*'s *Gate*, as King *Lud* to **Ludgate**.

Pag. 8. lin. 39. *Eumerus Messenius.*] Some such fabulous Writer as our Sir *John Mandevil*, who tells us of People and Countreys, that are no where to be found in the World.

CHAP. VI.

Pag. 9. lin. 19. *In the time of* Brennus *and* Belinus.] The first of these was General of the *Gauls*, who were called *Senones*, and going into *Italy* with them, sackt *Rome*. There he built the City *Verona*, called by his Name *Brennona*; as he had done *Brennoburgum* now **Brandenburg** in *Germany*. From his prowess and famed Exploits, it is supposed that the *Britans* or *Welsh* do to this day call a King **Brennin**. Of the other, *viz. Belinus*, some mention hath been made already.

CHAP. VII.

Pag. 10. lin. 24. *Locrinus, Camber and Albanactus.*] From the first of these three Brethren, to wit, *Locrinus*, it is said, that the *Welsh* call *England* **Lloegr**, that falling to the eldest Sons share; from the second *Camber*, that a *Welsh*-man is named **Cumra**, and the Countrey *Cambria*;

bria; and from the third *Albanactus*, that *Scotland*, or at least good part of it retains the term of *Albania*, a title still belonging to the King of *Britain*'s second Brother, the Duke of *York*. Though for my part for this last name of *Albanactus* I am somewhat of opinion, that it might be devised by some smattering Monk purposely in favour of the *Trojan* Story, as much as to say in a mungrel word *Albæ ἄναξ* King of *Alba*, a City of *Italy* built by one of *Æneas* his Sons.

L. 29. **Gavelkind.**] From the *Saxon* **gafel** or **gafol**, a Debt or Tribute, and **cyn** or **kynd**, the Kindred or Children; or, as Mr. *Lambard*, **gif eal cyn**, *i. e.* given to all who are next of Kin; or, as *Vorstegan*, **give all kind**, *i. e.* give to each Child his part. An ancient custom of the *Saxons*, whereby the Fathers Estate was equally divided amongst his Sons; as it is still amongst the Daughters, if there be no Sons. It obtains still in several places, especially in *Kent* by the concessions of the *Conqueror*.

Pag. 11. lin. 22. *The Laws of second Venus.*] Not having *Plato* by me, nor any other means to inform my self better, I imagine that by the *first Venus* they mean the force of Lust and Beauty, which doth so naturally incline people to a desire of union and copulation; and by the *second Venus* consequently is intended that prudential reason, by which men according to wholsome and equal Laws easily suffer themselves to be gathered into Societies, and to comply with one another in mutual indearments.

P. 12. lin. 12. *Jupiter's Register.*] Διὸς διφθέρα in the *Greek* Proverb, is the skin of that Goat, which nursed him in his Childhood, of which after her Death in honour of her memory, and reward of her services, he made his *Register*, to enroll therein and set down upon record all the concerns of mankind.

Lin. 15. *Of some Æthalides.*] He was the Son of *Mercury*, and had the priviledge allowed him to be one while among the living, another while among the dead, and by that means knew all that was done among either of them. The Moral is plain, that he was a great Scholar, who what with his refin'd meditation and study of Books, which is being among the dead, and what by his conversation with men, had attained great knowledge and prudence: So that *Pythagoras* himself, as modest as he was to refuse the Title of *Wise* man, and to content himself with that of a *Philosopher*, that is, a Lover of Wisdom, yet was fond of the counterfeit reputation of being thought to be He, giving out according to his own Doctrine of *Transmigration*, that he was the man.

CHAP. IX.

P. 14. lin. 6. *What? that those very Letters*, &c.] The Authors expression here may seem somewhat obscure; Wherefore I think fit to set down this by way of explication. He sayes, that the Letters which the *Greeks* used in *Cæsar*'s time, and which we now use, are rather such as the *Greeks* borrowed from the *Gauls* than what they had originally of their own. This he proves in the end of this Paragraph by the judgement of several Learned Men. So then, if this were so, *Cæsar*, who without all question was well enough acquainted with the *Greek Letters* then in use, yet in all likelihood did not so well know what the true old *Gallick Letters* were, the people being strangers to the *Romans*, and he having but lately had any converse with them, and so might very probably mistake, in thinking that, because the Letters were the same,

same, the *Gauls* might borrow the *Greek* Letters to make use of; whereas the contrary (to wit, that the *Greeks*, after the disuse of the *Phœnician* Letters, which *Cadmus* had brought over into *Greece*, took the *Gallick* in their stead) is averr'd by *Lazius*, *Becanus*, &c.

CHAP. X.

Pag. 15. lin. 12. *From the sixth Moon.*] Whether that were from the *sixth Month* they began their reckoning, which among the *Romans*, was *August*, therefore called formerly *Sextilis*, as the rest that follow according to order, are styled *September*, *October*, *&c.* or whether it were from the *sixth day* of the Moon's age, (as they apply by way of Proverb *Quartâ Lunâ nati* to the unfortunate, *Hercules* having been born on such a day of the Moon) is none of my business to determine, but to leave it to the Readers own inquiry and judgement.

Lin. 17. *Nestor's triple age.*] Which if it be reckoned according to this account of Thirty Years to an Age, makes but Ninety years in all. And though that also be a great Age for a man to handle Arms, and to attend the duty and service of War, yet that is not so extraordinary a case, but that others may be found in Story to stand in competition with him. Besides it falls short of that description, which *Homer* hath given of him, τοῦ δ' ἤδη δύο μὲν γενεαὶ κλ. μετὰ δὲ τρίτατοισιν ἄνασσεν. Which implyes, that he had out-lived *two* Generations (to wit, the *Fathers* which had been bred up with him, and the *Sons* which had grown up into his acquaintance) and that now he reigned among the *Grand-children*, the *Third* generation, the two former having been swept off the Stage. And in this sense the *Latins* took it, as appears by *Horace*, who sayes of him *ter Ævo functus*, that he had gone through the course of nature, lived out the life of man, three times over; and in that he is styled by another old Poet *trisecli senex*, that is, the Three hundred years old Gentleman; for as *ævum* in the one signifies the whole space of humane life, so *seculum* in the other is constantly taken for a Hundred years.

* Nav. Gymnosophistæ Lovanii in Aliuto Troy. A. Gel. 19. 7. Sed quamvis Lovanium mos-Gellius scripsit in Libro Noctium Tertiarum.

Pag. 16. lin. 2. *Greece, all over Italy.*] For all the lower part of *Italy* was at that time inhabited by the *Greeks*, and from them called *Magna Græcia*, or *Græcia Major*, in opposition, I suppose, only to *Sicily* the neighbouring Isle, as being alike inhabited by *Greeks*, but of less extent.

Lin. 18. *Voitland.*] A Province of *Germany*, in the *Upper Saxony*.

Lin. 21. *Having their heads uncovered.*] That as they were barefooted, so they were bare-headed also, perfect *Gymnosophists*. The *Latin* is *nudis pedibus*, *capita intecta*, *Græcanico pallio & cucullato*, *perulâque*, and may be rendred indeed, *having their heads covered* or muffled. But how? *With a Pall hooded and a Satchell.* I, but what had the *Satchell* to do with their heads, that hung at their side, and so they are pictured. But to pass this, Reader, thou art at thy own choice, to take which interpretation of the two thou wilt; for the *Latin* word *intecta*, as I said, admits of either.

CHAP. XII.

Pag. 18. lin. 10. *The Women carried it for* Minerva *against* Neptune.] There is another account given of this Story, that these two Gods being in a contest, which of them should be intitled to the Presidence of this City *Athens*, they did each of them, to oblige the Community in their

their favour, by a Miracle cause to rise out of the ground, the one (*Neptune*) an *Horse*, to denote Prowess and warlike Courage, the other (*Minerva*) an *Olive*-tree loaden with fruit, an Emblem of Peace and Fruitfulness; and that the Citizens preferr'd the latter, as the greater merit and more welcome blessing.

Lin. 26. *Juno, Salacia, Proserpina.*] *Juno* was *Jove* the *Thunderer*'s Consort, as *Proserpine* was the forc'd Mate of grim *Pluto*, the infernal Queen. The third, *Salacia*, Lady of the Sea, was Wife to *Neptuneas*, S. *Austin* hath it out of some of the old *Roman* Writers: though among the Poets she generally pass by the name of *Amphitrite*.

Pag. 19. lin. 25. *Amalasincta, Artemisia, Nicaula*, &c.] These brave Ladies or She-Heroes are famous upon record, and need not any thing further for their commendation, but their Name. This *Artemisia* mentioned here, was not the Wife of *Mausolus*, a vertuous and magnificent Woman too, but another who lived in *Xerxes*'s time, a great Commandress, in alliance with him. *Nicaula*, it seems, though whence he learn't her Name, I cannot tell, for Scripture gives it us not; was she, who is there called the *Queen of the South*, a great admirer of *Solomon*'s Wisdom.

CHAP. XV.

Pag. 25, 26. The *Inscriptions*, which are left un-englished, are only brought in, to evidence, that there were several *Roman Colonies*, beside that at **Waldon**, called *Colonia Victricensis*, planted up and down in *Britain*; to wit, at *York*, at *Chester*, at *Glocester*, and I doubt not but at *Colchester* too, no less than there was one at **Cullen** in *Germany*, as the very name of them both imports, *Colonia*. And that ours hath an addition of **Chester** to it, is usual to some other Cities: **Colchester** for **Colnchester**, which in *Latin* would be *Colonia Gastri*, or rather *Colonia Castrum*, the Castle or Garrison of the Colony.

CHAP. XVI.

Pag. 28. lin. 11. *Now you for your part are Gods Vicegerent in the Kingdom.*] They are the words of Pope *Eleutherius* in his Letter to *Lucy*, the first Christian King, which was in the year of our Lord 183. From whence we may fairly conclude, that in those early dayes, the *Pope of Rome* according to his own acknowledgement had no such pretensions as now for several Ages since they have made, upon the Rights of Princes, to the great disturbance of the World, and reproach of Christian Religion. And indeed this is the more considerable, in that such was the simplicity of devotion in those early Converts, and such the deference, which Princes who embraced the Christian Faith, especially from the Missionaries of *Rome*, had for that *Holy See*, as appears by this one single instance; that it had been no hard matter, nor could be judged an unreasonable thing, for them to lay claim to a right, and assert a power, which was so voluntarily offered. Further I add, that seeing the *Donation of Constantine*, besides that it was alwayes look't upon as a piece of forgery, was at best, supposing it true, but an Imperial Grant and Concession, which would not be of authority enough to bear up the *Popes Supremacy* in all other Kingdoms of the earth; and seeing Pope *Boniface*, who was the first that with bare face own'd it, his complyance with *Phocas* was so grosly wicked, that none of their own Writers but are ashamed to make that transaction betwixt those two,

two, an argument for the Papal pretence: Seeing, I say, it is so, if the Pope be intitled, as their *Canonists* pretend, to an Universal Dominion by vertue of his Office, and by Commission from *Christ* and his chief Apostle S. *Peter*, how came it to pass, that the Bishops of *Rome* all along till *Boniface*, were so modest, as not to challenge any such rights or powers; nay, upon occasion to declare against such pretences, as *Antichristian*; which, if that be true, that the *Pope* is by his Office, and by a Divine Commission instated into a *Supremacy*, was in effect no less, than to betray the cause of *Christ* and his *Church*: how came it to pass, that *Eleutherius* should neglect such a seasonable and exemplary opportunity of maintaining and exercising his right, and should rather chuse to return it in a complement back to the King his Convert? *VICARIUS verò DEI estis in Regno*, says he, *You are GOD's VICAR in your Kingdom:* which Title now the *Pope* doth with as much arrogance challenge to himself, as here one of his Predecessors doth with modesty ascribe to the *King*.

Lin. 32. *With the title of* Spectabilis.] Towards the declension of the *Roman* Empire, it was usual so to distinguish great Offices with peculiar Titles, as *Spectabilis, Clarissimus, &c.* so among the *Italians*, *Magnifico* to a Senator of *Venice*, *Illustrissimo* to any Gentleman, *Eminentissimo* to a Cardinal: So with us the term of *Highness* is given to a *Prince* of the Blood, *Excellence* to a *Vice-Roy* or a *Lord Lieutenant* and to a *General* of an Army, *Grace* to an *Arch-bishop* and to a *Duke*, *Honour* to a *Lord*, *Worship* to an *Esquire*, &c.

CHAP. XVII.

P. 29. lin. 43. *Fabius Quæstor Æthelverd.*] Why he calls him *Fabius Quæstor*, is at present past my understanding. Did he take upon him a *Roman* name? Was he in any such Office as *Quæstor*, *i. e.* Treasurer or Receiver General, wherein he behaved himself like a *Fabius*? or did he intitle his Book by that name? I am to seek.

CHAP. XVIII.

Pag. 31. lin. 19. *Whatsoever there was in* Pandora *of Good and Fair.*] She was a Woman made by *Jupiter*'s own order, and designed to be the pattern of female perfection: to which end all the Gods contributed to the making of her several gifts, one Wisdom, another Beauty, a third Eloquence, a fourth Musick, *&c.*

CHAP. XIX.

P. 32. lin. 27. Wapentakes.] Which in some of our Northern Countreys is the same as we call other-where a *Hundred*, from the *Saxon* word Wæpen, i. e. *arms*, and tac, i. e. *touch*; as one should say, a touching or shaking of their Arms. For, as we read it in King *Edward*'s Laws, when any one came to take upon him the Government of a *Wapentake*, upon a day appointed all that owed suit and service to that Hundred, came to meet their new Governour at the usual place of their Rendezvouz. He upon his arrival, lighting off his Horse, set up his Lance an end (a Custom used also among the *Romans* by the *Prætor* at the meetings of the *Centumviri*) and according to custom took fealty of them. The Ceremony of which was, that all who were present, touch't the Governours Lance with their Lances, in token of a confirmation: whereupon that whole meeting was called a Wapentake, inasmuch

inasmuch as by the mutual touch of one anothers Arms, they had entred into a confederacy and agreement to stand by one another. This fashion, they say, the *Saxons* took up from the *Macedonians* their Progenitors. Others will have it from **tac** to take, and give this account of it, that the Lord of the Hundred at his first entrance upon the place was used to take the Tenants Arms, surrendred and delivered up to him by themselves, in token of subjection by way of Homage. Sir *Thomas Smith* differs from both these; for he sayes, that at the Hundred meeting, there was a Muster taken of their Weapons or Arms; and that those who could not find sufficient Pledges for their good abearing, had their Weapons taken away; so that in his sense a **Wapentake** is properly *Armilustrium*, and so called from taking away their Weapons or Arms, who were found unfit to be trusted with them.

L. 40. *For the Ceremony of the Gown.*] He alludes to the *Roman* Custom, with whom the youth, when they arrived at mans estate, were then allowed to wear *togam virilem*, to put on a *Gown*, the habit of men; whereas before that, they were obliged to wear a Coat peculiar to the age of Childhood, called *Prætexta*: whence *Papyrius*, though yet a Child, being admitted into the Senate-house for his extraordinary secrecy and manly constancy, was called *Papyrius Prætextatus*.

Pag. 33. lin. 9. **Morgangeb.**] Or **Morgingab**, from **Morgin**, which in *High Dutch* signifies the *Morning*, and **gab**, a *gift*; to wit, that Present, which a man makes to his Wife, that morning he marries her.

CHAP. XX.

Pag. 34. lin. 3. *Tityus his Liver.*] A Gyant, who for ravishing of *Latona* was adjudged to have his *Liver* after death prey'd upon continually by a Vulture, which grew up again as fast as it was wasted. The equity of which punishment lay in this, that the *Liver* is reputed the source and seat of all lusts and unlawful desires, and doth naturally, as some Physicians hold, receive the first taint of Venereal distempers (the rewards of impure mixtures) according to that of *Solomon*, speaking of an Adulterer, *Till a dart strike thorough his Liver*; from whence they gather, that that, which we now call the *French Pox*, was not unknow even in that age of the World.

L. 26. *Prema and Mutinus.*] This latter a Title given to *Priapus*, much-what such a God, as *Baal Peor* was; the other a Goddess forsooth much to the same purpose. For the old *Romans* had *Gods* and *Goddesses*, as the present *Romans* have *Saints*, for every thing, for every action of life. But their Offices were such, as the modest Reader will easily excuse the want of explaining them.

Lin. 38. *Sayes* Progne *to her Sister* Philomel.] *Tereus* King of *Thrace* having married *Progne* Daughter of *Pandion* King of *Athens*, when he went to fetch her Sister *Philomel*, ravished her by the way on Shipboard; which occasioned a bloody revenge in the murder of his Son *Itys*. At last they were turned all four into so many several sorts of Birds; *Progne* into a Swallow, *Philomel* into a Nightingale, *Tereus* into a Lapwing, and *Itys* into a Pheasant.

CHAP. XXI.

Pag. 36. lin. 20. *With head-money called* **Wergild.**] A word compounded of the *Saxon* **were**, the price or value or worth of a man, and **geld** or **gild**, a payment. That is, he that had killed another, was to buy

buy off his life, by paying the full value of the person slain. The prizes or rates are set down in *Ethelstan*'s Laws, by *Thrimsa*'s, a kind of Coyn, or piece of money, of the value of three shillings, saith Mr. *Lambard*; which being reduced to our *Sterling* stand thus.

A Peasant,	40 *l.* 1 *s.*
A Thane, or one in Orders,	300 *l.*
A General, or Chieftain,	600 *l.*
A Bishop, or Alderman,	1200 *l.*
An Arch-Bishop, or Peer,	2250 *l.*
And a King,	4500 *l.*

Half of which last summ was to go to the Kindred, and the other half to the publick. And these Rates are set, he sayes, by the Common Law of the *English*. The reason of this pecuniary compensation, was their tenderness of life, that two men might not dye upon the account of the same mischance, according to that saying in an ancient Law, *Nulla sit culpa tam gravis, ut vita non concedatur, propter timorem Dei.* But yet withal in some cases of premeditated or clandestine murder, they were not excused from making satisfaction with their life; or in case one were not able to pay the were, or Fine, he was punished with death. I called this *Head-money*, because in *Latine* it is termed *capitis æstimatio*, the value or price of a mans head: not in that sense as either *Chevage* or *Poll-money* is so called.

CHAP. XXII.

Pag. 37. lin. 42. In the Margin *Caxton* is quoted, a Book, it seems, rare; of which he saith, That Book, that goes up and down by this name, Mr. *Warin Townsend* of *Lincolns-Inn*, a Gentleman Noble by his Descent and Learning both, very friendly lent me for my use in a very fair Manuscript; which courtesie of his, I cannot but think it a foul shame for me, not to own and acknowledge with all thankfulness.

Pag. 38. lin. 17, 18. *Even now in the time of those that are called the Good.* 'Tis *William* of *Malmesbury*, whom he quotes; *etiam nunc tempore Bonorum.* Whether he mean *Good Princes*, who would have those Laws observed, or *Honest Subjects*, who would observe them, or whether there were any sort of men in his time that went by that Character of *Boni*, good men, is more than I have to say. There was at one time a sort of Religious persons, that went by the name of *Bon Hommes*; but that can have nothing to do in this business.

CHAP. XXIII.

Pag. 39. lin. 14. *Every Native home-born lawful man.*] In the *Latin* it is *Indigena legalis*, in the *Saxon* Law-term it is Inlaugbe or Inlaugb, that is, one that is under the Law, *Inlagatus*, who is in *Frank pledge*, or belongs to some *Court Leet*: as all Males from twelve years old and upwards were obliged to be. So *Bracton* tells us.

Lin. 27. *Decenna.*] The same as *Decuria*, which is generally rendred a *Tithing*, *i.e.* a Company of ten men with their families, all of them bound to the King to answer for one anothers good and peaceable behaviour. From the *Latin* word it is called a Dozein, and the people that belong to it are called *Deciners* or Dozeniers, that is, *Decennarii*. The chief of them is termed *Decurio* or *Decanus Friburgi*, the *Tithing-*

man or *Headborough*. And all Males of twelve years age and upwards (except Nobles and Religious persons) were obliged to be of some *Dozein* or other. But now there are no other *Dozeins* but *Leets*, and no other security there given for the Kings Peace, but the persons own Oath.

Lin. 29. **Friborgh.**] From the *Saxon* **freo**, *free*, and **borgh**, a *surety* or security: or, as some write it, **Fridburgh**, from **frid**, *peace*, and **burgh**, *a surety*. If it be taken for the person, it is the same that a **Detiner** (we now spoke of;) if for the action, it is their being sureties for one another: if for the company of these mutual ingagers, 'tis the same as *Decuria*, a Tything, in *Saxon* **tienmannatale**, *i. e.* the number of ten men. The *Normans* retained the same custom, but altered the name, calling it **Frankpledg**, from the *French*, *Frank*, i. e. *free*, and **pledg**, i. e. *surety*. And the compass or circuit of this *Frankpledg* the same as that of **Friburg**, to wit, the *Decenna* or **Dozein**, *i. e.* ten housholds.

Lin. 40. *Manupastus.*] Of this *Bracton* sets down a Rule for Law, that every person, whether free-man or servant, either is or ought to be in frank-pledge or of some bodies **mainpast**. Now he is of ones *Mainpast*, saith he, who is allowed Victuals and Clothes, or Victuals only and Wages. And this was the reason, why great men were not obliged to be of any ordinary *Dozein*, because Bishops, Earls and Barons, as the same *Bracton* informs us, ought to have their menial servants in their own *Friborgh*, and to answer to the King for their behaviour, and to pay what forfeits they should make, if they had not the persons themselves forth-coming. And this, sayes he, is the case of all those who are of any ones **Mainpast**.

CHAP. XXIV.

P. 41. lin. 16. *John Scot Erigena.*] A School-man famous for his subtilty, called in *Latin*, *Johannes Duns Scotus*. Whether **Duns** were the Name of his Family, as it might be, *Johannes de Dunis*, which in *English* would be **John Downs**; or whether it were a Nickname given him for his slovenliness and seeming blockishness, from the word **Dunce**, which in Barbarous *Latin* is *Dunsa*, (For so in *Camden*'s *Remains* we find the Emperour *Charles*, as I take it, putting that question to him, as he sate at Table over against him, *Quid interest inter Scotum & Sotum*, What difference between a *Scot* and a *Sot?* to which he as freely replyed, *Mensa*, the Table, Sir) I shall not determine. But *Scotus* or **Scot**, is the name of his Countrey, he being a *Scotch*-man, and for that reason called also *Erigena*, that is, *Irish born*, to wit, a *Highlander*; for those people were originally *Irish*, and came out of that Island over into the North parts of *Scotland*. Now *Ireland* is by several Authors *Greek* and *Latin* called *Ierna*, and by the Inhabitants themselves **Erin**.

L. 43. *The Goddess Anna Perenna.*] The Lady President of the year, *Anna ab Anno*; to whom they addrest their devotions, that she would *perennare*, that is, preserve and continue health and plenty and prosperity from year to year; for which reason she was called *Anna Perenna*. Now our Author here brings in long-lived *Nestor* and this Goddess, to shew that those good fellows in quaffing of healths, do wish *multos annos*, as the *Spaniard* saith, many and many a years life to their absent friends, while in the mean time by tossing off so many bowsing Canns, they shorten their own lives.

Pag.

Pag. 42. lin. 24. **Engleſcyre.**] Or **Engleterie**, that is, the being an *Engliſh*-man. For there was a Law made by King *Knute* in favour of his *Danes* (and ſo afterward it was interpreted in behalf of the *Francigenæ*, *French*-men, or whatever foreigners) that if any ſuch were privily murdered or ſlain, the Village, where the fact was done, ſhould be amerced in a luſty fine to the King, unleſs they could prove **Engleterie**, that is, that the murdered perſon was an *Engliſh*-man, one born of *Engliſh* Parents, in which caſe there was no fine levied. So that the *Danes* and *French*, when they governed here, provided they might ſecure themſelves from the *Engliſh*, were well enough content to let them deſtroy one another.

CHAP. XXV.

Pag. 44. lin. 11. *An Olympiad.*] An account of time uſed by the *Greeks*, conſiſting of four years, ſo called from the *Olympick* Games, which were celebrated in honour of *Jupiter Olympius* every fifth year. This reckoning began firſt in the year of the World three thouſand one hundred ſeventy four.

In the SECOND BOOK.

CHAP. I.

PAg. 48. l. 5. *By right of* **Freehold.**] *Allodii jure*, that is, by a mans own right, without acknowledgment of service or fealty, or payment of Rent to any other as a Superiour Lord. In which respect it is opposed to an Estate in **Fee**, wherein though a man hath a perpetual right to him and to his heirs for ever, yet seeing he owes a duty and service for it, it cannot be said properly and simply to be his own. And such are all mens Estates here in *England*, but the Kings in the right of his Crown, who cannot be supposed to hold of another, or to owe fealty to any Superiour, but to God only.

Lin. 12. *Under Military service.*] Or **Knights service**, that is, to find the King such a number of Men and Arms in time of War, as it is here expressed. See *Cowell* in the word **Chivalry.** Indeed the Clergy before the *Conquerour* in the time of the *Saxons* (as we find it in the five and twentieth Chapter of the first Book) were allowed to be free from Secular Services, but with an Exception and Reserve however of these things, *to wit*, Expedition, Repairing of Castles and Building of Bridges, from which last duty the High-Priests among the *Romans* were called *Pontifices, i. e.* Bridge-makers. Now this bringing of the Bishops Baronies under *Knights Service*, was sure enough design'd to engage them into a close dependence upon the Crown, and to take them off from hankering after any forreign Power, to which they might pretend to owe any subordination; as all along the times of Popery, out of reverence to the *Holy See*, they were forward enough upon occasion to think themselves obliged to do, even to the high discontent and great disservice of their Kings.

CHAP. II.

Pag. 51. lin. 12. *Ready money.*] So I render *Viva pecunia*: which though *Spelman* saith it is so called, that it may the more expresly signifie *pecudes, i. e.* Cattle; yet he doth not to me, I confess, make out by any fair instance that it doth ever so signifie; and that it cannot be taken in that sense here, is plain from what immediately goes before, *quot animalia, imò quantum vivæ pecuniæ quisque possidebat*: where *animalia* living creatures include *pecudes* the Cattle.

CHAP.

CHAP. III.

Pag. 54. lin. 32. **Boseham.**] What Earl *Godwin*'s trick was, or wherein the conceit lay, I cannot at present well imagine, unless it were in the equivocation or misunderstanding of the word **Boseham**, as it falls in with the word **Bosom** in the pronunciation and sound of it; thus. Supposing the Earl at meeting of the Arch-Bishop, coming up to him upon pretence of saluting him said, *Give me your* **Boseham**, *my Lord*; to which the Arch-Bishop thinking belike, he might, by way of desiring his Pastoral embrace, mean only his **bosom**, readily made answer, *I give you my bosom*; which the Earl with a cunning fetch interpreted a Grant of his Estate of **Boseham.**

Pardon, Reader, my mistake, if it be one; since I have no better account, from my own guess, to give, meeting with no help from our Law-Dictionaries.

CHAP. IV.

P. 56. lin. 8. *The first* **Sheriffs** *of Counties.*] A **Sheriff** or **Shyre-reeve** signifies the Governour of a County, called in *Latin Vice-comes*, as Deputy to the Count or Lord or Chief Man of the County; though even in the *Confessor*'s time he was reckoned the Kings Officer, and not the Counts. This Office, as Mr. *Camden* tells us, was first set up by King *Alfred*, who also divided *England* into Counties, and those Counties again into Hundreds and Tythings.

Lin. 29. *Other Judges without appeal.*] This should seem to be the Court of **Chancery**: for which reason the Lord *Chancellor* is said to keep the Kings conscience, as here these Judges are compared to the Kings bosom.

Lin. 37. *Acting a* Busiris *his part.*] *i. e.* Treating strangers ill; he being a cruel Tyrant of *Egypt*, who slew strangers, and sacrificed them to his Gods: whence the Proverb, *Busiridis ara.*

Pag. 57. lin. 39. *that he should pay it at the Scale.*] That is, should pay it by weight, or according to full weight.

CHAP. VI.

Pag. 66. lin. 17. *Being Lord Chief Justice of the whole Kingdom.*] In the *Latin* it is thus expressed; *totius regni placitator & exactor*: where I confess the former title of the two gave me the occasion of my mistake, as if he had been Chief Justice of the *Common Pleas*: whereas I should rather have rendred it thus; *who had been* (to wit, in King *Rufus* his time) *Pleader or Demander and Receiver of the Kings duties throughout the whole Kingdom.* For such an Officer this *Exactor regius* was, otherwise called *Grafio*. See *Spelman* upon both those words.

Lin 39. *In the times of the Saxons a* **Heriot.**] This at first was a tribute given to the Lord for his better preparation towards War; but afterward though the name were kept, the thing was altered, being taken for the best Chattle, that the Tenant hath at the hour of his death, due to the Lord by custom, be it Horse, Ox, *&c.* That *Heriot* and *Relief* do not signifie the same thing, appears by this, that they are both often found to be paid out of one and the same Tenure, and again that the heir

heir alway succeeds into the Estate upon the payment of the *Relief*, but not alwayes upon the payment of the *Hereot*.

Lin. 42. *In French is called a* **Relief.**] From the Verb *Relever*, to raise again and take up the Estate which had faln into the Lords hand by the death of the Ancestor. It is a summ of money, which the new Homager, when he is come to age, payes to the Lord for his admission or at his entrance into the estate. Whence by the old Civilians 'tis called *Introitus*, and in *Greek* εἰσδικτικόν. This summ was moderately set; wherein it differed from **Ransom**, which was much more severe. The Kings rates upon his Homagers were thus: An Earls heir was to give an hundred Pounds, a Barons an hundred Marks, a Knights an hundred Shillings at most; and those of lesser estate less, according to the ancient custom of their Tenures: as *Spelman* quotes it out of the Charter of *Henry* the Third.

Pag. 61. lin. 11. *Of the greater* **Vavasors.**] They were a sort of Gentlemen next in degree to the Barons. They did not hold immediately of the King, but of some Duke, Marquess or Earl. And those that held from them again, were called *Valvasini*, or the lesser *Vavasors*. There is little certainty what their Offices or Priviledges were, or indeed whence they were so called; whether *qu. ad valvas stantes*, or *valvæ assidentes*, for their sitting or standing at their Lords door, (if those of that quality did so) as some would have it; or that they kept the doors or entrances of the Kingdom against the enemies, as *Spelman* sayes; or whether from *Vassalis*, as the Feudists derive the name, from that inferiour Tenure they had mediately from the King by his great Lords; which seems the more likely, because these *greater Vavasors*, who did so hold, are sometimes termed *Valvasores regii* and *Vassi dominici*, that is, the Kings Vassals.

Lin. 27. *Her Dowry and right of Marriage.*] In the Latin it is *dotem suam & maritagium*. Now *Dos* is otherwise taken in the *English*, than in the *Roman* Laws; not for that which the man receives with his Wife at marriage, a *Portion*: but for that which the Woman hath left her by her Husband at his death, a *Dowry*. And *Maritagium* is that which is given to a Man with his Wife, so that 'tis the same as *Dos* among the *Romans*, saith *Spelman*. But this is too general, I think, that the man should be obliged to return at his death *all* to his Wife that he had with her, beside leaving her a Dowry. I am therefore rather inclined to *Cowell*, who tells us, *Maritagium* signifies *Land* bestowed in marriage; which, it seems, by this Law was to return to the Wife, if her Husband dyed before her. The word hath another sense also, which doth not belong to this place, being sometime taken for that which Wards were to pay to the Lord for his leave and consent that they might marry themselves, which if they did against his consent, it was called *Forfeiture of marriage*.

Lin. 35. *The common Duty of Money or Coinage.*] So I render the word *Monetagium*. For it appears, that in ancient times the Kings of *England* had Mints in most of the Countreys and Cities of this Realm. See *Cowell* in the word *Moniers*. For which priviledge, 'tis likely, they paid some duty to the chief place of the Mint. Thus in *Doomesday* we read, as *Spelman* quotes it, that in the City **Winchestre** every Monyer paid twenty shillings to *London*; and the reason given, *pro cuneis monetæ accipiendis*, for having Stamps or Coins of Money. For from this *Latin* word *Cuneus* (which our Lawyers have turned into *Cuna*, from whence

whence the Verb *Cunare*) comes our *English* word **Coyn**. Now it is more than probable, that the Officers of the Chief Mint might by their exactions upon the inferiour Mints give occasion for the making of this Law.

Lin. 42. *Or Children or Parents.*] By *Parent* here we are to understand not a Father or Mother, but a Cousin, one a-kin; as the word signifies in *French*, and as it is used in our Laws. And indeed the *Latin* word it self began to have that sense put upon it in vulgar speech, toward the declension of the Empire, as *Lampridius* informs us.

Pag. 62. lin. 21. *A pawn in the scarcity of his money.*] That is, if he were not able to pay his forfeit *in specie*, *i. e.* to lay down the money, he was to give security by a pawn of some of his Goods or Chattels. See *Cowell* in the word **Gage**. This in *Latin* is called *Vadium*, a pawn or pledge, from *Vas*, *vadis*, a surety. Hence *Invadiare*, to pawn or ingage a thing by way of security, till a debt be paid.

Lin. 23. *Nor shall he make amends.*] From the *French amende*, in our *Law-Latin emenda*: which differs from a Fine (or mulct) in this, that the *Fine* was given to the Judge, but *Amends* was to be made to the Party aggriev'd. Now there were three sorts of this *Amende*, the Greater which was like a full Forfeiture, the Mid-one at reasonable terms, and the Least or Lowest which was like a gentle Amercement. This distinction will help to explain the meaning of this Law.

L. 30. **Per fee de Hauberke.**] This in *Latin* is called *Feudum Hauberticum*, i. e. *Loricatum*, sayes *Hotoman*, from the *French* word *Haubert*, that is, a Coat of Mail, when a Vassal holds Land of the Lord on this condition, that when he is called, he be ready to attend his Lord with a Coat of Mail or compleat Armour on. Now *Haubert*, as *Spelman* tells us, properly signifies a High Lord or Baron, from *Haut* or *hault*, high, and *Ber* (the same as *Baro*) a Man or Baron. And because these great Lords were obliged by their place and service to wait upon the King in his Wars on Horse-back with compleat Armour, and particularly with a Coat of Mail on: hence it came, sayes he, that the Coat of Mail it self was also called *Haubert*; though he doth afterward acknowledge that the word is extended to all other Vassals, who are under that kind of Tenure. But then at last he inclines to think, that the true ancient writing of the word is **Haubert** (not *Haubert*) as it were **Hautberg**, *i. e.* the chief or principal piece of Armour; and **Berg** he will have to signifie Armour, as he makes out in some of its compounds, **Bainberg** Armour for the Legs, and **Halsberg** Armour for the Neck and Breast: and derives it from the *Saxon* **Beorgan**, *i. e.* to arm, to defend. Add to this, saith he, that the French themselves (and we from them) call it an **Haubergeon**, as it were *Haubergium*.

Lin. 33. *From all* **Gelds.**] The *Saxon* word **geld** or **gild** signifies a Tribute or Tax, an Amercement, a payment of money, and money it self: whence I doubt not, but the best sort of money was called **Gold**. It is from the Verb **geldan** or **gyldan**, to pay. In *Latin* it is *Geldum*, and not *Gilda*, as *Cowell* writes it. For this signifies quite another thing, a Fraternity or Company of Merchants or the like. Whence a **Gildhall**, that is the Hall of the Gild or Society: such as was once the **Stilyard**, called *Gildhalla Teutonicorum*, the *Gild-hall* for the *Dutch* Merchants from the Hanse-Towns.

CHAP.

CHAP. VII.

Pag. 63. lin. 25. *Iphis* and *Ianthis* and *Ceneus.*] Persons mention'd by *Ovid*, who changed their Sex, from Female to Male. *Iphis* was a Maid of *Creet*, who after her *Metamorphosis* when she turn'd to Man, took *Ianthe* to Wife: and *Cænis* (for that was her Maiden Name) was a *Thessalian* Girl, whom *Neptune* made a Whore of first, and then at her request a Man, who thenceforward went by the Name of *Cæneus.*

Lin. 34. *Cheats, whom they commonly call Coyners.*] In *Malmesbury's* Latin, *Trapezitas, quos vulgò Monetarios vocant.* Which bare citation is all the account, that *Spelman* gives of the word *Monetarius.* It doth properly signifie an Officer of the Mint, that makes and coyns the Kings money; a Monier. But here by the Historian's implying that such fellows, as this Law was made against, were *falsarii*, Cheats, and by our Author's terming of them *adulteratores monetæ*, Counterfeiters of Coyn: we must understand them to be False Coyners, Clippers, Washers, Imbasers of the Kings Coyn, and the like. And therefore I render'd *trapezitas* (which otherwise is a word of innocent meaning for Money-Changers, Bankers, *&c.*) in the Historian's sense *Cheats.*

CHAP. VIII.

Pag. 65. lin. 24. *Every* Hide *of Land.*] It is so called from the *Saxon* word hyden, *to cover*; so that thus it would be the same as *Tectum* in *Latin*, a Dwelling-house. And thus I question not, but there are several houses called *The* Hide: for I know one or two my self so called, that is, the Capital Messuage of the Estate. Nor is it so confined to this sense, but that it takes in all the Lands belonging to the Messuage or Manour-house, which the old *Saxons* called hidelandes, and upon some such account no doubt Hidepark had its name, as a Park belonging to some great House. Now as to the quantity, how much a Hide *of land* is, it is not well agreed. Some reckon it an hundred Acres, others thereabouts, by making it contain four Yardlands, every Yardland consisting of twenty four Acres. The general opinion is, that it was as much as could be ploughed with one Plow in a year, *terra unius aratri culturæ sufficiens.* And thus it should be muchwhat the same as *Carrucata terræ, i.e.* a Plough-land. From *Bede*, who translates it *familia*, they gather it was so much as could maintain a family. There is mention made of these *Hides* in the Laws of King *Ina*, an hundred years before King *Alfred*, who divided the Countrey into *Counties* or Shires. And Taxes and Assessments were wont to be made according to these *Hides*; up as high as King *Ethelred*'s time in the year of our Lord 1008. Since the Conquest, *William* the First had six shillings for every Hide in *England*, *Rufus* four, *Henry* the First here three for the marriage of his daughter.

Pag. 66. lin. 8. *This right is called* Wreck.] *i.e.* by which the King claims shipwrack't goods cast on shoar. For though by the Law of Nature such things, as being *nullius in bonis*, having no Owner, every one that finds them may seem to have a right to them; yet by the Law of Nations they are adjudged to the Prince as a special priviledge by reason of his dignity. Now Wreck (or as the *French* call it *Varec*) properly signifies any thing that is cast on shoar, as Amber, precious Stones,

Stones, Fishes, *&c.* as well as shipwrack't goods: from the *Saxon* wræc, *i. e.* any thing that is flung away and left forlorn; though use hath limited the word to the later sense.

CHAP. IX.

Pag. 68. lin. 6. *The* Roman *Laws were banisht the Realm.*] I suppose there may be some word missing or mistaken in the *Latin*, *à regno jussæ sunt leges Romanæ:* But that which follows, the forbidding of the Books, obliged me to that interpretation: for why should the Books of those Laws be prohibited, if the Laws themselves were (as the *Latin* reading seems to import) ordered and ratified by the Realm. Wherefore I suppose some mistake, or omission, and for *à regno jussæ*, read *à regno pulsæ* or *exulare jussæ*, *&c.* unless you would like to have it thus rendred, *commanded out of the Kingdom*: which I confess would be a very odd unusual construction.

CHAP. X.

Pag. 69. lin. 39. *Three hundred* Marks *of Gold.*] A Mark weigh'd eight ounces, and as *Cowell* states it out of *Stow*, it came to the value of 16 *l.* 13 *s.* 4 *d.* At this rate three hundred Marks of Gold come to five thousand Pound; and to every Bishop five Marks, supposing only ten Bishops, come to 833 *l.* 6 *s.* 8 *d.* which is a very unlikely summ in this business. 'Tis true, the value of it, as of other Coyns and summs, might vary. And so we find in *Spelman*, that an uncertain Author reckons a *Mark of Gold* to be worth fifty Marks of Silver. But then 'tis as uncertain, what *Marks of Silver* he means. For if they be such as ours are (and as they were in King *John*'s time) at 13 *s.* 4 *d.* then a Mark of Gold will be of the value of 33 *l.* 6 *s.* 8 *d.* which is just double to the former value of 16 *l.* 13 *s.* 4 *d.* (which being resolved into Marks of Silver, makes but 25.) But in ancient times a *Mark of Silver* was only 2 *s.* 6 *d.* so that fifty of them will make but 6 *l.* 5 *s.* Another instance we meet with, where one *Mark of Gold* is accounted equivalent to ten *Marks of Silver*; which taking a *Mark* for 13 *s.* 4 *d.* comes to 6 *l.* 13 *s.* 4 *d.* Another, where nine Marks of Silver pass for one Mark of Gold, in a payment to the King: which is just six pound. And these *three* last accounts agree pretty well together. Taking the middlemost of the three, *viz.* a Mark of Gold at ten Marks of Silver; thus the above named summ of three hundred *Marks of Gold*, that is, three thousand *Marks of Silver* amounts to two thousand Pound; and the five *Marks* to every Bishop (supposing but ten Bishops) come to 333 *l.* 6 *s.* 8 *d.* But if we take these *Marks of Silver* at 2 *s.* 6 *d.* the account will grow much less. For ten such *Marks* are but 1 *l.* 5 *s.* so that the three hundred *Marks of Gold* at this rate will come but to 375 *l.* Sterling. But that these *Marks* of the ancient and lower estimate are not here intended, may probably enough be gathered from one passage more we find there, *Centum solidi dentur vel marca auri*, where, if *solidi* stand for shillings (for they may be taken for *soulx* as the *French* call them) a *Mark of Gold* is made of equal value with 5 *l.* Sterling. And thus three hundred Marks of Gold come to Fifteen hundred pound.

I confess after all, most of these accounts of the **Mark**, *Gold* or *Silver*, may be admitted of, as having possibly at some time or other been true; since mony, both in its Coyns and Summs, hath in several Ages of the World, risen, and fallen according to its plenty or scarcity.

Lin. 42. *Being arighted and accused of any matter.*] Or rather in the Law-spelling **arrested**; in *Latin rectatus*, that is, *ad rectum vocatus*, convened before a Magistrate and charged with a crime. Thus *ad rectum habere*, is in *Bracton*, to have a man forth coming, so as he may be charged and put upon his tryal. It may be also rendred, *taken upon suspicion.* It is written sometime *retatus* and *irretitus*.

Pag. 70. lin. 33. *To give suretiship for the Remainder.*] I confess I do not well know how to apply to this place that sense, which our Common Law takes the word **Remainder** in, for a power or hope to enjoy Lands, Tenements or Rents after anothers estate or term expired; when an estate doth not revert to the Lord or Granter of it, but *remains* to be enjoyed by some third person. What if we say, that as Bishops could not (because their estates are of Alms) grant any part of their Demeans *ad remanentiam*, for ever or to perpetuity, so here Excommunicate persons were not obliged *dare vadium ad remanentiam*, to find sureties for continuance or for perpetuity, that is, for their future good behaviour, but only to stand to the judgement of the Church in that particular case for which they were at present sentenced.

CHAP. XI.

Pag. 72. lin. 24. *If a Claim or Suit shall arise.*] In the *Latin*, *si calumnia emerserit*, a known and frequent word in our Law, which signifies a Claim or Challenge, otherwise termed *clameum*.

Lin. 37. *Till it shall by Plea be deraigned.*] or **dereyned**: which is in *French dereyné*, in the *Latin*, *disrationatum*, which as it hath several significations in Law, so here it imports, after a full debate and fair hearing, the determination of the matter by the judgement of the Court.

CHAP. XII.

Pag. 75. lin. 2. *By the name of* **Yumen.**] The same say some, as the *Danes* call *yong men*. Others derive the word from the *Saxon* **geman**, or the old *Dutch* **Gemen**, that is, *common*, and so it signifies a *Commoner*. Sir *Tho. Smith* calls him *Toman*, whom our Laws term *legalem hominem*, a Free-man born (so *Camden* renders it by *Ingenuus*) who is able to spend of his own free Land in yearly Revenue to the summ of Forty Shillings, such as we now, I suppose, call *Free-holders*, who have a Voice at the Election of Parliament-men. But here the word is taken in a larger sense, so as to include servile Tenure also or Villenage.

CHAP. XIII.

Pag. 77. lin. 5. **Leude-men.**] From the *Saxon* **Leod**, the common people. It signified in Law a Subject, a Liege man, a Vassal, a Tenant: hence in *High-dutch* a Servant was called **Leute**, in *Old English* a **Lout.** But in common acception **Lewd** was formerly taken for a Lay-man,

Lay-man, λαϊκὸς, one of the people, or for any illiterate person. Now it is used to denote one who is wicked or loose and debauched.

CHAP. XIV.

Pag. 79. lin. 8. *The States of the Kingdom, the* **Baronage.**] He means the whole Parliament, and not only the House of Lords by the word *Baronage*. For though by *Barons*, now we properly understand the Peers of the Realm; yet anciently all Lords of Manours, those who kept Court-Baron, were styled *Barons*: Nay *Spelman* tells us, that all Free-holders went by that name before the Free-holds were quit-letted out into such small pittances, as now they are, while Noble-men kept their Lands in their own hands, and managed them by their Vassals. *Cowell* gives this further account of those Lords of Manours, that he had heard by men very learned in our Antiquities, that near after the Conquest all such came to Parliament, and sate as Nobles in the Upper House. But, as he goes on, when by experience it appeared, that the Parliament was too much pestered with such multitudes, it grew to a custom, that none should come but such as the King, for their extraordinary wisdom or quality, thought good to call by Writ, which Writ ran *hâc vice tantùm*, that is, only for this turn. So that then it depended wholly upon the Kings pleasure. And then he proceeds to shew, how after that they came to be made Barons by Letters Patents, and the Honour to descend to their posterity.

Lin. 27. *By way of safe pledge.*] That is, to oblige them to give security for the parties appearance against the day assigned; who in case of default were to undergo the dammage and peril of it.

Pag. 80. lin. 7. *St.* Peter's *pence.*] These *Peter-pence* were also called in *Saxon*, **Romescot** and **Romesceob** (that is, a Tribute or Fee due to *Rome*) and **Rome-penny** and **Heartb-penny.** It was paid yearly by every Family (a Penny a house) at the Feast of S. *Peter ad Vincula* on the first day of *August*. It was granted first, sayes our Author out of *Malmesbury*, by *Ina* or *Inas* King of the *West-Saxons*, when he went on Pilgrimage to *Rome*, in the year of our Lord 720. But there is a more clear account given by *Spelman* (in the word **Romascot**) that it was done by *Offa* King of the *Mercians*, out of an Author that wrote his Life. And it is this, That *Offa* after thirty six years Reign having vowed to build a Stately Monastery to the memory of St. *Alban* the *British* Protomartyr, he went on Pilgrimage to *Rome*, *Adrian* the First then Pope, to beg Indulgences and more than ordinary Priviledges for the intended work. He was kindly received, and got what he came for; and the next day going to see an *English* School, that had been set up at *Rome*, he for the maintenance of the poor *English* in that School, gave a Penny for every house, to be paid every year throughout his Dominion, (which was no less than three and twenty Shires at that time) only the Lands of S. *Alban* excepted. And this to be paid at the Feast of S. *Peter*, because he found the body of the Martyr on that day, for which reason it was also called *S. Peter's Penny*. And although at last these *Peter-pence* were claim'd by the Pope as his own due and an Apostolical right, yet we find, that beside the maintenance of a School here mentioned, for which they were first given, they have by other Kings been appropriated to other uses. Thus we read that *Athelwolf* Father to King *Alured*, who was the first Monarch of this Isle, granted three hundred

Marks (the summ total of the *Peter-pence* here, bating only an odd Noble) to be paid yearly at *Rome*. One hundred for the honour of S. *Peter*, to find Lights for his Church: another hundred for the honour of S. *Paul* on the like occasion: and the third hundred for the Pope's use to enlarge his Alms. This was done in the year 858. when *Leo* the Fourth was Pope.

Lin. 9. *Thirty pence of live money.*] Possibly the worth or value of thirty pence in Goods and Chattels. King *Offa*, in his Grant thus words it, *quibus sors tantum contulit extra domos in pascuis, ut triginta argenteorum pretium excederet*; who had an Estate besides Houses in Lands, which might exceed the value of thirty silver pence.

Lin. 15. *Out of a Rescript of Pope* Gregory.] We have the whole Letter set down in *Spelman*, which speaks in *English* thus, *GREGORY the Bishop, Servant of the Servants of God, to his Worshipful Brethren the Arch-Bishops of* Canterbury *and* York, *and to their Suffragans, and to his beloved Sons the Abbots, Priors, Arch-Deacons and their Officials, appointed throughout the Kingdom of* England, *unto whom these Letters shall come, Greeting and Apostolical Benediction. In what manner the Pence of S.* Peter, *which are due or owing to our Chamber, are to be gathered in* England, *and in what Bishopricks and Dioceses they are owing, that there may arise no doubt on this occasion, we have caused it to be set down in this present Writing, according as it is contained in the Register of the Apostolick See. Out of the Diocess of* Canterbury *seven pounds and eighteen shillings sterling: Out of the Diocess of* London *sixteen pounds, ten shillings.* And so of the rest. *Teoven at the old City*, April 22. *in the second year of our Popedom.* There is some difference though in the account of the Dioceses. For after *Lincoln* he leaves out *Coventry* and puts *Chichester* for *Chester*, 8 *l.* and then after *Bath* he puts in *Salisbury* and *Coventry* (with a mistake 10 *l.* 10 *s.* for 5 *s.*) and leaves *York* last. Besides every body knows there are more Dioceses now than were then. This was *Gregory* the Fifth that wrote this, and it was (our Author tells us) in the time of King *Edward* the Second. But *Edward* the Third in the year of the Lord 1365. and of his Reign 39. forbad these *Peter-pence* to be paid any more at *Rome*, or to be gathered any longer in *England*.

CHAP. XV.

Pag. 81. lin. 10. *Into six Provinces or* **Circuits.**] As they are for number still, with two Judges a piece, though at first three. How these differ from what they now are, as to the Counties, the Reader may easily satisfie himself. Here are thirty seven of them, as we now reckon: only with this difference, that *Monmouth* and *Rutland* are left out, and *Richmond* and *Copland* are put in.

Pag. 82. lin. 27. *And if he perish*, i. e. *sink, let him lose one foot.*] For that in this tryal by water, was the sign and proof of guilt, if the party thrown in did not swim, which is quite contrary in the tryal of Witches: as you will find in the next Chapter, which treats of **Ordeals.**

Lin. 39. *The Kings great Assise.*] **Assise** is a word, that hath many significations in our Law. It is here in the Title taken for a Statute; *The Assises (i. e.* the Statutes and Ordinances*) of King* Henry *made at Clarendon.* But in this place it is used for a Jury; and it is either the Great or *Grand Assise*, which serv'd for the right of Property, and was to consist

consist of twelve Knights; or the *Petty Assise*, which served for the right of Possession only, and was made up of twelve lawful men.

CHAP. XVI.

Pag. 86. lin. 34. *The superstitions and fopperies.*] These you have also in Sir *H. Spelman*, with an *Incipit Missa Judicii*, which shews that the Church of *Rome* did once approve of these Customs, which since she hath condemned, notwithstanding her pretence of being Infallible. I would to God, she would deal as ingenuously in throwing off those other errors and corruptions, we do so justly charge her with.

CHAP. XVII.

Pag. 87. lin. 21. **Þogenþine.**] Or **Agen-þyne**, that is, ones own servant. It is written also **Þome-þyne**, that is, a servant of the house.

Lin. 33. *Holding in Frank Pledge.*] The *Latin* is *francus tenens.* Wherefore amend the mistake, and read *holding in Frank Fee.* For *Frank Pledg* is a thing of another nature, as belonging to a mans Behaviour and not to his Tenure. Now *Frank Fee* is that which is free from all service, when a man holds an Estate at the Common Law to himself and his heirs, and not by such service as is required in ancient demesne.

Pag. 88. lin. 12. *The* Falcidian *Law.*] So named from one *Falcidius*, who being Tribune of the people in *Augustus* his time, was the Maker of this Law.

Lin. 33. *Twenty pounds worth of Land in yearly revenue.*] So I render 20. *librata terræ.* For although *Cowell* in proportion to *Quadraptata*, or Fardingdeal of Land, which he saith is the fourth part of an Acre, seems at first to gather that *Obolata* then must be half an Acre, *Denariata* a whole Acre, and by consequence *Solidata* twelve Acres, and *Librata* twenty times twelve, that is, two hundred and forty Acres: Yet this was but a conceit of his own. For by having found the word used with reference to Rent as well as Land, thus 20. *libratas terræ vel reditûs*, he is forced to acknowledge, that it must signifie so much Land as may yield twenty shillings *per annum.* To which opinion *Spelman* also gives his assent. But what quantity of Land this *Librata terræ* is, cannot so easily be determined. *Cowell* out of *Skene* tells us, it contains four Oxgangs, and every Oxgang thirteen Acres: if so, then it is fifty two Acres, and twenty of them, which make a Knights fee, come to one thousand and forty Acres, which somewhat exceeds the account here set down of six hundred and eighty out of the Red Book of the Exchequer. But there is a great deal of more difference still, as the account of the **Knights fee** is given by others. In one Manuscript we read, that *A Yardland contains twenty four Acres, four Yardlands make one Hide*, (that is, ninety six Acres), *and five Hides make a Knights fee*, (that is, four hundred and eighty Acres) *the Relief whereof is a hundred Shillings.* Another Manuscript hath it thus, *Ten Acres according to ancient custom make one Fardel, and four Fardels* (that is, forty Acres) *make a Yardland, and four Yardlands* (that is, one hundred and sixty Acres) *make one Hide, and four Hides* (that is, six hun-

dred and forty Acres) *make one Knights fee.* A third reckons it otherwise, that *sixteen Yard-lands make a whole Knights fee*; which if we make a Yard-land to be twenty four Acres (according to the first account) comes to three hundred eighty four Acres; but if (according to the second) we take it for forty Acres, it amounts to six hundred and forty Acres. *And*, saith he, *when they are taxed at six Shillings four Pence* (that is, every of the sixteen Yard-lands, which make up the Fee, at so much) *they make the summ of one hundred Shillings* (or five Pound, which was the ancient Relief of a Knights fee.) But this is a mistake either of the Author or the Citation; it is six Shillings three Pence, which makes that just summ; from whence we learn also what proportion was observed by the Lord in setting and demanding of the Relief upon the next Heir after his Ancestor's decease. Further in the Kings Writ, as *Glanvil* cites it, it is said, that twelve Plough-lands make one Knights fee: which, allowing to a Plough-land one hundred & twenty Acres, amounts to one thousand four hundred and forty Acres. In the main, as to the value of a Knights fee, 'tis enough what *Cowell* tells us, that it was so much inheritance, as was sufficient yearly to maintain a Knight with convenient Revenue, which in *Henry* the Thirds dayes, *Camden* sayes, was fifteen Pounds, and Sir *Thomas Smith* rates at forty. But to confirm the account, which our Author here gives us, we find in the Statute for Knights in the first of *Edward* the Second, that such as had twenty Pounds in Fee, or for term of life *per annum*, might be compelled to be Knights. And as to the various measure of Land (of which we have had a remarkable instance in this business before us) *Spelman* hath given us good reasons for it; since where the Land was good, they might probably reckon the fewer Acres to a Yard-land, a Hide, a Knights fee, *&c.* and where it was barren, they might allow the more. Beside, that some Lords, who lett these Fees, might be more bountiful and profuse, others more parsimonious and severe to their dependents; and that the services which were imposed upon these Fees, might in some Mannors according to custom be lighter, in others upon agreement and covenant more heavy. All which might strangely diversifie the account, as to the quantity or measure of those Lands, which were to make up a Knights fee.

CHAP. XVIII.

Pag. 91. lin. 4. *A little* **Habergeon** *or Coat of Mail.*] In *Latin Halbergellum*, a diminutive from the *Saxon* **Halsberg**, armour for the Neck and Breast. It is written also *Haubergellum* and *Hambergellum*. They mistake themselves, who translate it a *Halbert*, in *French Halebarde*, an offensive Weapon, for a Coat of Mail, which is armour of defence, in *French Haubert* or *Hauberk*; whence **Fer de Haubert**, which we have already explained somewhere before.

Lin. 5. *A* **Capelet** *of Iron.*] A little Iron or Steel Cap instead of a Head-piece or Helmet, which the better sort wore. For by comparing this with the two fore-going Sections, we find they were to have a difference of Arms according to their different Quality and Estate.

Lin. 7. *A* **Wambais.**] *Wambasium* or *Wambasia*, so called, I suppose, because it reached over the belly or *womb*, was a Jacket or Coat of

of defence, used in stead of the Coat of Mail, perhaps like unto our Buff-coats, though probably not of Leather only, but of any other material, as the Wearer should think fit.

Pag. 92. lin. 6. *Timber for the building of Ships.*] In *Latin* here, *Mairemia*; written also *Meremia* and *Meremium* and *Maremium* and *Muremium*, from the *French Meresme*, Timber to build with.

Lin. 14. *Stercutius.*] *Saturn* so called, as being the first Inventer of dunging Land.

Lin. 28. *Under the title of Free-men.*] Here the Author himself hath in the *Latin* added a Marginal Note, which I thought fit to remove to this place. He saith, that among the ancient *Germans* the *Alway free*, the *Middlemost free*, and the *Lowermost free* were, as it were, the *Classes* and several Ranks of the lesser Nobles, *i. e.* of their Gentry. For the title of Nobless (as also in our Vulgar Language) was given only to Princes and Great Men. And for this he quotes *Munster. Cosmog. lib. 3.*

CHAP. XIX.

Pag. 93. l. 32. *In the borders of the* Carnutes.] A people of *France*, whose Countrey is called *Chartrain*, and their chief City *Chartres*, about eighteen Leagues from *Paris* Eastward. That Town eight Miles off, called *Dreux* (in *Latin Drocum*) was so named from the *Druids*, who dwelt there at first; and likely enough afterward often resorted thither.

P. 94. l. 27. *Of the three Estates, the King, the Lords, and the Commons.*] There are indeed three Orders or Estates acknowledged by true Divines and sound Lawyers in the *English* Government; to wit, the *Lords Spiritual*, the *Lords Temporal*, and the *Commons* of *England*. But the fundamental mistake of our Learned Author is, that he hath joyned those two sorts of Lords (whose very character shews them to be of a distinct *species*, though as to the publick Welfare and the Kings Service they ought to be of one and the same interest) into one Estate, and to make up the third Estate, thought himself obliged to bring in the *King* himself for one, who is Lord paramount over all the three; and by this means *ipsam Majestatem in ordinem redigere.* I call this a fundamental mistake, as a most probable ground of Rebellion (as it was in the Barons Wars, and in our late Civil Broils) inasmuch as if the *King* make one of the three Estates, as they fancy he doth, and hath (as they do from thence conclude he hath no more) but a *co-ordinate* power with both or either of the other two Estates; that then it is lawful for both or either of those Estates, in case of publick grievances to quarrel the King (their co-ordinate) if he will not give way to their redress; that is, if he will not consent to do what they would have him to do; and upon his refusal of so doing, to raise War against him, to sequester and murder his Loyal adherents, to destroy his Royal Person; and finally, if he escape the hazards of Battel, when they get him into their hands, to bring him to account for a pretended male-administration, and the violation of a trust, which God and not the People put into his hands; and having gone so far, that they may, if possible, secure themselves, to put the Monarch to death, and to extirpate Monarchy it self. This was the ground and method of our late *Republican* policy

policy and practice. Wherein yet they did not foresee what examples they set against themselves, supposing this Doctrine of the *three Estates* in their sense to be true, and that *King*, *Lords* and *Commons* had an equality of trust and parity of power, that the same outrage, which the *Rump-Commoners* acted against the King, to the destroying of him, and against the *Lords*, to the outing of them, and voting them useless and dangerous (as to their share of Government) might one time or other be more plausibly promoted, and more effectually put in execution by one or both of the other two *Estates*, with the help and assistance of great numbers of the *Commoners* (as there ever will be in such National divisions) against themselves and all men whatever of such pernicious and destructive principles. No. This false Doctrine, I hope, will never obtain among us; and our *English Government* is so well constituted, that our *Lords Spiritual* and *Temporal* and our worthy *Commoners*, will find it the interest of themselves and their posterities, that they will ever have that duty and deference to our *Soveraign*, as may secure Him and Us, and discourage the designs, and defeat the attempts of all such as wish ill to his honour and safety, or to the publick peace. Besides, is it rational to imagine, that the *King*, whose absolute right by Law it is, to convene the *Estates*, when and where he thinks fit, to call and dissolve *Parliaments*, as he pleases: in a word, that He, in whose Name all *Justice* is administred, in whose Hands the *Militia* is, and by whose Authority alone the Subjects can take up *Arms*, should stand only in a *Co-ordination* of power with any other persons whatsoever or however assembled or associated within his Dominions? This flaw I could not but take notice of in our Great Author, and that only with an intention to undeceive the unwary Reader, and not to reflect upon his Memory, who though he kept along a great while with the *Long Parliament*, yet never appeared in action for them, that ever I heard, much less used or owned that virulence and violence, which many others of that ill Body of men judged necessary for their proceedings.

CHAP. XX.

Pag. 96. lin. 15. *Alderman of England.*] The word **Alderman**, in *Saxon*, **Ealdorman**, hath various acceptions, so as to signifie all sorts almost of Governours and Magistrates. So *Matth.* 20. 25. *the Princes of the Gentiles*, in the *Saxon* translation are called **Ealdormen**; and *Holofernes*, I remember, the General of the *Assyrian* Army, is in an *Old English* Translation called the **Alderman** *of the Army*. So *Æthelstan* (whose younger Son this *Ailwin* was) being Duke or Captain General of the *East-Saxons* is in this Book of *Ramsey* styled *Alderman*. The most proper importance of the word bears up with the *Latin Senator*, *i. e.* Parliament-man; as the Laws of S. *Edward* make out. "In like "manner, say they, heretofore among the *Britons*, in the times of the "*Romans*, in this Kingdom of *Britanny* they were called *Senators*, who "afterwards in the times of the *Saxons* were called *Aldermen*; not so "much in respect of their Age, as by reason of their Wisdom and "Dignity, in that some of them were but young men, yet were skil-"led in the Law, and beside that, were experienced persons. Now that *Alderman of England*, as *Ailwin* here was, had to do in affairs of Justice,

Justice, appears by the foresaid Book of *Ramsey*, where it is said, that *Ailwin* the Alderman and *Ædric* the Kings Provost sate Judges in a certain Court. The *Alderman of the County* our Author makes to be the same as the Earl or Lord of the County, and *Spelman* saith, it is hard to distinguish, but at length placeth him in the middle betwixt the Count and Viscount. He and the Bishop kept Court together, the one for Temporals, the other for Spirituals. The Title goes lower still, to denote a Mayor or Bailiff of a Corporation, a Bailiff of a Hundred, &c.

Lin. 30. **Healf-koning.**] It was an oversight or slip of memory in our Author, to say, that *Ailwin* was so called; when the Book of *Ramsey* tells us, it was his Father *Æthelstan*, who was of that great power and diligence, that all the business of the Kingdom went through his hands, and was managed as he pleased, that had that Nick name given him therefore.

Lin. 36. *The* **Graves.**] Our Author makes them subordinate to the *Aldermen* of Counties: but in the Laws of the *Confessor* they appear to be muchwhat the same. There we read, "And as they are now "called **Greves**, who are put in places of Rule over others, so they "were anciently among the *English* called *Ealdermen*. Indeed, the word **Greve** or **Reeve** (for it is all one) is of as various use, as that other of *Alderman* is. In *Saxon* it is **gerefa**, from **gerefen** and **reafen**, to take or carry away, to exact or gather. Whence this Officer (*Graphio* or *Gravius* from the *Saxon*) is in other *Latin* called *Exactor regius*; and by reason that the *Sheriff* gathered the Kings Fines and other Duties, and returned them to the Exchequer, he was called the **Shire-greve** or **Shire-reeve**, that is, the Gatherer of the County. But the truth is, that **Greve** or **Reeve** came at last in general to signifie any Ruler or Governour set over any place almost whatever; as the same word **Grave** doth among the *Dutch*. So a **Shire-greve**, or **hibgerefa**, the High Sheriff of a County; a **Port-greve**, the Governour of a City or Port. So the Lord Mayor of *London* was called formerly. **Tun-greve**, the Bailiff of a Town or Mannor. Sometime **Greve** is taken for a Count or Earl, as *Alderman* is.

CHAP. XXI.

Pag. 98. lin. 22. *For Toll and Gabell.*] In the *Latin pro theolonio & gablo.* Now *telonium*, from the *Greek* τελώνιον, properly signifies the place where the Officers of the Customs receive the Kings duties; but is used also for a duty paid for the maintenance of Bridges and River-Banks. So *Hotoman*. But in our Law it is taken for the **Toll** of a Market or Fair. And *Gablum* or *Gabellum*, a **Gabell**, from the *Saxon* **gafol** or **gafel**, signifies any Impost upon Goods; as that in *France*, upon Salt, *&c.* also Tribute, Custom, any kind of Tax or Payment, *&c.*

Lin. 32. *Through the Streets of* Coventry.] There is a famous Tradition among the people of that Town concerning this matter, that the Lady being to ride naked, only covered all over with her hair, had given order for the more decent performance of her Procession, that all the Inhabitants should that day keep their Shops and Doors and Windows shut. But that two men tempted by their Curiosity to do what fools are wont to do, had some such penalty, I know not what it was, inflicted upon them, as *Acteon* had for the like offence.

And

And they now ſtand in ſome publick place cut out of Wood or Stone, to be ſhewn to any ſtranger that comes thither, like the Sign of the *Two Logger-heads*, with the ſame Motto belike, *Nous ſommes trois.*

Pag. 99. lin. 7. *Brought in my Court a certain* **Toper.**] In the *Latin*, *attulit in curiâ meâ quandam* **Toper.** I know what the adverb *Toper* ſignifies among the ancient *Latines*; but what the word means here, I confeſs, I am in the dark. It doth certainly ſtand for ſome thing (I was thinking a **Taper**) which he brought with him into Court, and ſware upon it, as he ſhould have done upon the holy Goſpels. I cannot imagine, that by *quandam* **Toper**, ſhould be intended ſome Woman or Girl, whoſe Name was **Toper**, whom he brought along with him, and in defiance to the Court, laying his hand upon her, took his Oath as formally, as if he had done it upon the holy Evangeliſts.

Reader,

Reader,

ONe thing I forgot to acquaint thee with in the Preface, *that, whereas the Author himself had divided each* Book *into several* Sections, *which were very unequal and incommodious, I thought it much more convenient for thy ease and profit, to distribute them into* Chapters; *together with the Argument or Contents of each* Chapter *at the beginning; and withal, that no one may complain, that I have injured the* Author, *by altering his Method, I have left his* Sections *also marked with a Numeral Note* 1, 2, 3, &c. *on the side of the inner or outer Margin.*

FINIS.

ERRATA.

IN the *Translator's* Preface, p. 4. l. 15. r. (*and hath that of crabbed in it beside*) *and as to the method is so intricate.*

Pag. 11. l. 2. r. *and strifes:* p. 14. l. 50. r. *Pieces:* p. 17. l. 41. r. *Borderers:* p. 20. l. 16. for **facts**, r. **toils**: p. 21. l. 24. r. *and Money:* p. 30. l. 16, r. **Lazzes**: p. 31. l. 28. r. **and Breeding**: p. 34. l. 14. r. *peccatum:* l. 40. r. **of his eyes**: p. 35. l. 2. r. *Quid:* p. 43. l. 7. r. *sorry old Verse:* p. 49. l. 48. r. *too truly:* p. 56. l. 6. r. *Warden:* p. 61. l. 13. r. *Vulgar:* l. 21. r. *bestowing her:* p. 62. l. 25. r. *misdemeanour:* p. 65. l. 11. r. *add:* p. 72. l. 43. r. *seasonably:* p. 74. l. 5. r. *Gloceſter. Whom:* p. 85. l. 14. r. *strict:* p. 86. l. 26. r. *that in the:* p. 87. l. 5. r. *What. Of him:* p. 91. l. 17. r. *him:* p. 92. l. 32. r. *Cattle:* p. 96. l. 34. r. *turned:* p. 108. l. 33. r. *retired:* p. 110. l. 8. r. *Neptune, as:* p. 112. l. 34. r. *unknown;* p. 113. l. 34. r. **Inlagh**: p. 116. l. 18. r. *three things:* p. 117. l. 47. r. *found:* p. 122. l. 6. r. **arretted**: p. 123. l. 9. r. *quilleted.*

FINIS.

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